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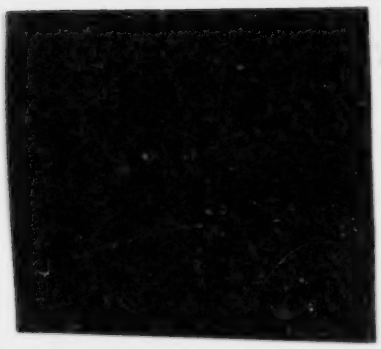
HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic reports of States parties due in 1996

Addendum



NORWAY*

[4 February 1997]

* For the third periodic report submitted by the Government of Norway, see CCPR/C/72/Add.1; for its consideration by the Committee, see CCPR/C/SR.1270 to SR.1272 and Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40), paras. 84-97.

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Introduction

1. The fourth periodic report of Norway is submitted in pursuance of article 40, paragraph 1 (b) of the International Covenant on Civil and Political Rights and the Human Rights Committee's decision on periodicity (CCPR/C/19/Rev.1).

2. To facilitate the examination of the report, reference is made to Norway's previous periodic reports; the third periodic report (CCPR/C/70/Add.2), the second periodic report (CCPR/C/42/Add.2), the initial report (CCPR/C/1/Add.5) and the supplementary report to the initial report (CCPR/C/1/Add.52). During the preparation of this report, due regard has been paid to the guidelines regarding the form and content of periodic reports from States parties (CCPR/C/20/Rev.2), and the comments of the Human Rights Committee on Norway's third periodic report (CCPR/C/79/Add.27).

3. Before finalizing the present report, a draft was submitted for comments to the Government's Advisory Committee on Human Rights, whose functions and composition were described in Norway's second periodic report (paras. 3 and 4).

I. GENERAL

4. A description of the general legal framework within which the civil and political rights recognized in the Covenant are protected in Norway is contained in the initial report submitted by Norway, pages 1-2, and in the second periodic report, paragraph 5, as well as in the initial part of the reports submitted by Norway, known as the "core document" (HRI/CORE/1/Add.6). However, some major new developments can be reported, see paragraphs 6-10 below.

II. INFORMATION IN RELATION TO EACH OF THE ARTICLES IN PARTS I, II AND III OF THE COVENANT

Article 1

Self-determination

5. Reference is made to the information given in Norway's third periodic report, paragraphs 1-3. There are no changes or new developments to report under this article.

Article 2

The implementation of the Covenant

6. On 15 July 1994, the Storting (Parliament) unanimously adopted a new constitutional provision, article 110 c, which reads: "It is incumbent upon the authorities of the State to respect and ensure human rights. Further provisions concerning the implementation of treaties thereon shall be laid down by statute."

7. This provision came about as a result of the work of a committee appointed by the Government in 1989 to consider the incorporation of human rights conventions into Norwegian law. In its report, NOU 1993: 18, the committee proposed the adoption of a constitutional provision which would stress the obligation of the legislator, government and public administration to respect and ensure human rights (see the first paragraph of article 110 c). The committee also proposed the adoption of a statute which states that certain international human rights conventions shall apply as statutory law (see the second paragraph of article 110 c). The committee emphasized the need to have a global perspective on human rights. It also suggested that the incorporation, at least for the time being, should be limited to the core instruments of the international protection of human rights. On this basis, it proposed that the conventions to be incorporated by the Act should be the European Convention on Human Rights with additional protocols, the International Covenant on Civil and Political Rights with optional protocols and the International Covenant on Economic, Social and Cultural Rights.

8. The committee felt that it was not necessary to confer upon the conventions the status of constitutional law. It should be noted, however, that the bill drawn up by the committee stipulates that the conventions shall take precedence over statutory provisions which afford a weaker protection of the same rights and freedoms. Thus, it might be said that the conventions are given a higher status than ordinary legislation.

9. A more detailed account of the committee's reasoning is given in the English summary of its report, a copy of which is enclosed as appendix 1.

10. A bill proposing a Human Rights Act in line with the draft presented by the committee is presently being prepared. The bill is scheduled to be presented in early 1997.

Information on the rights and freedoms recognized in the Covenant

11. As the rights and freedoms recognized in the Covenant are among the most fundamental human rights, any information on or teaching of human rights in general will put substantial emphasis on these rights and freedoms.

12. Human rights form an integral part of general education:

(a) In primary and lower secondary school instruction on human rights is given under various subjects, under such headings as "interaction and cooperation between people", "peace and international understanding", "community and society" and "community ethics". For instance, the lately revised core curriculum for primary, secondary and adult education in Norway states that in the third grade, the pupils shall, among other things, "learn about children's rights and how these are extended as the child grows older, hear that all human beings have certain rights, learn about conflicts and how they are solved". In the seventh grade they shall, among other things, "be given an overview of the international efforts to promote human rights, seek information on the work of the United Nations and other organizations, and learn about the background for and the content of the Convention on the Rights of the Child and the ILO Convention relating to Indigenous Peoples, and take part in humanitarian aid work";

(b) In upper secondary school, issues relating to human rights are also taught under various subjects. In the subject "social science", human rights is a fundamental topic. In the core curriculum, six goals are set for this subject. Goal No. 5 states: "The pupils shall have a knowledge of human rights, and be able to think of measures to promote these."

13. The teaching of human rights at the National Police Academy has recently been strengthened. Human rights, in particular civil rights, are an important part of the teaching in subjects such as personal rights, criminal procedure and police ethics. Human rights obligations are also an important focus of teaching at the Norwegian Prison Service College.

14. In the report NOU 1993: 18 referred to in paragraph 7 above, the committee proposed a number of measures to be carried out in order to increase awareness and knowledge of human rights among civil servants, judges and practising lawyers, as well as the public at large. Such measures will also be discussed in the bill on human rights.

Remedies in case of violation

15. On 10 October 1994, the Supreme Court decided a case which partly depended on the interpretation of article 2 (3) of the Covenant (see Norwegian Law Gazette 1994, p. 1244 et seq.). The background was the following: A woman who had been held in custody while she was pregnant alleged, after having given birth, that the European Convention on Human Rights, articles 3 and 8, and the Covenant, article 10, had been violated during her imprisonment, which had been terminated at the time of the court proceedings. She demanded a court decision which stated this (points 1-5 of her plea). In addition, she claimed damages for economic as well as non-economic loss (points 6-7 of her plea).

16. Section 54 of the Civil Procedure Act requires that the plaintiff must have a "judicial interest" in the outcome of the case in order to be allowed to bring forward a civil suit. This has been interpreted to mean that the plaintiff must have a current interest in the outcome of the case, which is usually not the case when the situation which gave rise to the complaint no longer exists. Also, it has to some extent been interpreted as a limitation to demand a judgement which merely states that a certain act is unlawful. Rather, the plaintiff has been bound to demand a remedy for the allegedly unlawful act. The question before the Supreme Court was whether the condition in section 54 was fulfilled as to points 1 to 5 of her plea.

17. The Supreme Court held that the interest in merely establishing that the conventions had been violated in this case was not a judicial interest within the meaning of section 54. When considering the question, account was taken of the requirements of article 2.3 of the Covenant and article 13 of the European Convention on Human Rights. The Supreme Court concluded that the requirements of these provisions would be fulfilled if the question of whether there had been violations of the conventions was decided by the court in connection with her claim for damages. The case was therefore dismissed with regard to pleas 1 to 5. However, her claims for damages due to an alleged breach of the conventions (pleas 6 and 7) were found admissible. The decision was carried by a three-to-two vote.

Legal aid

18. As mentioned in Norway's second periodic report, the obligation to implement rights also raises the question of free legal aid. In its report NOU 1993: 18, the committee also pointed out that the public system of legal aid must be so adapted that an applicant shall not for financial reasons be precluded from having violations of human rights established. The information relating to free legal aid given in Norway's previous reports needs to be updated. The net income limits which generally determine whether a person is eligible for free legal aid have (from 1 January 1997) been raised to a gross income of NKr 150,000 for an individual without dependants, NKr 160,000 for an individual with one dependant and NKr 170,000 for an individual with more than one dependant and for single parents. A fixed charge of NKr 300 and a proportional charge of 25 per cent of the total cost are as a main rule payable by the client. The proportional charge is to be computed on the basis of the difference between the lawyer's fee and the basic fixed charge.

19. Some law student organizations and barrister groups offer free legal aid regardless of the income of the recipient.

20. The right of an aggrieved party to have legal counsel according to chapter 9 a of the Criminal Procedure Act (cf. paragraph 20 of Norway's third periodic report) was extended in 1995. It now applies to victims of a wider range of sexual offences and offences in general when there is reason to believe that the aggrieved party will sustain serious injury to body or health as a result of the offence. This extension was one of several statutory amendments aimed at strengthening the position of the aggrieved party in the judicial process.

Investigation of acts committed by members of the police

21. Reference is made to paragraphs 9-11 of Norway's second periodic report and paragraph 14 of the third periodic report regarding special investigative bodies in cases against police officers and officers of the prosecution authority. During the period between 1991 and 1995 a total of 2,322 cases were reported to these bodies. The investigative bodies found reason to believe that a criminal offence had taken place in 197 of the cases. Of these, 16 cases were related to the use of force by the police.

22. There was a significant increase in the number of reported cases from 1991 to 1993 (515 reports were filed in 1991, 609 reports in 1993). However, the number of reports now seems to have stabilized at about 600 a year.

23. In his annual report of 1995, the Director of Public Prosecutions proposed that a research project be launched in order to gather more background material on the statistics concerning the special investigative bodies. The proposal is at present being considered by the Ministry of Justice.

24. In April 1995, new subsections were added to section 67 of the Criminal Procedure Act concerning the special investigative bodies. The seventh and eighth paragraphs of section 67 of the Criminal Procedure Act now read:

"Even if there is no reason to suspect a criminal act, the King may decide that such criminal investigation as is referred to in the sixth paragraph shall be commenced if any person dies or is seriously injured as a result of any performance of duty by the police or the prosecuting authority. The same applies if any person dies or is seriously injured while he is in the care of the police or the prosecuting authority.

"A police official within the meaning of the sixth and seventh paragraphs includes cadets at the Police College in practical training and manpower mobilized from the police reserve."

25. These amendments came about as a result of a thorough evaluation of the investigative bodies' role and the results of their work carried out in 1993-1994. The reason for including the seventh paragraph is that certain incidents are so serious that they require an investigation even though there is no suspicion of a criminal offence having been committed. These investigations should therefore not be interpreted as if the officers involved are suspected of a crime. The reason for the inclusion of the eighth paragraph is that cadets at the Police College and manpower from the police reserve are not considered to be "officers of the police", and they could originally not be investigated by the special investigative bodies. However, in the eyes of the public they do the same work as - and appear to be - ordinary police officers.

26. The Ministry of Justice appoints at least one, but generally two members of each investigative body. These members have not previously worked for the police or the Public Prosecutor.

The impact of the Covenant on judicial activities

27. Human rights instruments play an increasingly important role in Norwegian law. This trend can be seen from the number of cases in which the courts make references to human rights instruments. The table below shows the number of cases brought before the Supreme Court in which reference has been made to the European Convention on Human Rights. Reference is more seldom made to the Covenant, but the same pattern can probably be seen for such references.

Year	1989	1990	1991	1992	1993	1994	1995
No. of cases	0	6	10	8	7	14	27

28. Important court decisions are mentioned in this report under the relevant articles.

29. The Storting's awareness of human rights obligations has also increased. Lately, the Storting in some cases has asked the Government to make further comments on the extent to which the Government's propositions comply with international human rights instruments (see the present report under articles 7 and 18).

Discrimination

30. Information on measures to prevent discrimination is given under articles 3 and 26. As regards the position of foreign nationals, section 3 of the Immigration Act (cf. paragraph 12 of Norway's third periodic report) was amended by Act No. 49 of 30 June 1995. The section now reads (with the new wording underlined): "Unless otherwise provided by legislation currently in force, foreign nationals have during their legal stay in Norway the same rights and obligations as Norwegian nationals."

31. The amendment was made as part of the Government's efforts to reduce illegal immigration. The positions of illegal aliens with respect to various rights and obligations must, however, be determined on the basis of an interpretation of the specific statute in question, in the light, inter alia of the Immigration Act's general rule as well as relevant international obligations in the field of human rights, including the Covenant.

Article 3

32. Reference is made to Norway's periodic reports to the Committee on the Elimination of Discrimination against Women, in particular Norway's fourth periodic report (CEDAW/C/NOR/4).

Gender equality policy

33. The guidelines for Norwegian gender equality policy in the 1990s were set out in a white paper submitted to the Storting in 1992 (St meld nr 70 (1991-92)). The policy focuses on five main areas:

(a) A gender equality-oriented child-care policy which gives women and men equal opportunities to combine family responsibilities and paid employment;

(b) Eradicating inequalities in men's and women's pay, especially by upgrading the value of women's traditional occupations;

(c) Combating the abuse of women and sexual violence;

(d) Review and evaluation of the gender equality policy instruments;

(e) Incorporating gender equality considerations in all areas.

Legislation

34. Reference is made to Norway's second periodic report (paragraphs 19-22) and third periodic report (paragraphs 27-34), in which the Gender Equality Act (previously referred to as the Equal Status Act) and the bodies established to ensure gender equality are described. A translation of the Gender Equality Act is enclosed as appendix 2.

35. Section 3 of the Act prohibits discrimination on the grounds of sex, as well as treatment which actually has the effect of placing one sex at an unreasonable disadvantage (indirect discrimination). The provision allows for

differential treatment which promotes gender equality. By Act No. 43 of 1995, section 3 was amended to allow for preferential treatment of men applying for jobs in certain professions related to children, such as work in day-care centres, primary and lower secondary schools and children's welfare institutions. The background for this amendment is that such positions are still to a large extent held by women. A higher proportion of men in these professions is expected to help break down traditional sex role patterns.

36. Section 21 of the Gender Equality Act requires at least 40 per cent representation of each gender on all official committees, boards, councils, etc. Section 21 was recently amended in line with the new Local Government Act, which requires at least 40 per cent representation of each gender also on committees, etc. elected by proportional representation. The County Governor has authority to order re-election of committees which do not fulfil the 40 per cent rule.

37. Provisions on the reversed burden of proof have been added to the sections relating to education, pay, recruitment, etc. to the effect that if differential treatment can be established, e.g. in salaries, the employer must substantiate that the difference is not due to the gender of the employees.

38. The Government wishes to amend the equal pay provision (sect. 5) to make it more effective. The Government also wishes to establish a statutory obligation for enterprises to draw up plans of action to promote gender equality. The plans shall serve as a basis for concrete action designed to promote gender equality in enterprises.

Present situation of women

39. The number of women who are active in politics has increased over the last three decades. Public campaigns and the use of gender quotas in the political parties have been important measures in this respect, together with the provision of the Gender Equality Act requiring 40 per cent representation of both sexes in all public committees, etc. After the 1993 general election, a woman was appointed to the post of President of the Storting for the first time.

40. Percentage of women in political bodies (1995):

Government:	42.0
Storting:	39.4
County Councils:	38.6
Municipal Councils:	28.5
Government-appointed committees:	39.0
Municipal-appointed committees:	36.4
Mayors (municipalities):	12.5

41. Although women are now acquiring more and higher education than ever before and constitute almost 50 per cent of the workforce, they constitute a minority of leaders in both the private and the public sector. In 1994 women held 23 per cent of all management/senior posts in Norway.

42. Percentage of women in senior executive positions in central government administration (1995):

Secretary-General:	26.7
Director-General:	13.3
Deputy Director-General:	20.8
Assistant Director-General:	35.6
Head of Division:	39.2

43. The Gender Equality Act does not apply to internal affairs within religious communities. Nevertheless, the proportion of female ministers and women in different councils and committees within the Church of Norway is increasing. In 1996 women constituted 10 per cent of the vicars and curates in parishes as opposed to 1 per cent 10 years earlier. Norway's first female bishop was ordained in 1993. The issue of whether the Gender Equality Act should apply to the Church of Norway is currently being discussed.

44. The proportion of women in the judicial system is also increasing. Female judges constitute 13 per cent of the total number of judges. Women also account for 13 per cent of all lawyers in the prosecuting authority (1992).

45. Since the late 1980s, women have constituted a small majority of students in colleges and universities. Percentage of women among students (1994):

Upper secondary school:	47
Colleges:	57
Universities:	52

46. However, women at higher education levels are still studying for fewer years than men. Traditional gender roles are reflected in the educational choices made by young men and women; women constitute less than 20 per cent of the students at colleges of engineering, while men constitute approximately 15 per cent at colleges of health and education.

47. Women's participation in the paid labour force is increasing. The proportion of employed women in the age group 25-66 rose from 63 per cent in 1980 to 72 per cent in 1995. In 1995 the corresponding number for men was 83 per cent. In 1995 46 per cent of the employed women worked part time as opposed to 9 per cent of the men.

48. Women and men are to a large extent employed in different sectors, with women concentrated mainly in public, social and private services (55 per cent, 1995). In 1995 the registered unemployment among women was 4.6 per cent of the total workforce, while the registered unemployment among men was 5.1 per cent.

Article 4

Public emergencies

49. Reference is made to Norway's third periodic report, paragraph 39, as regards legislation pertaining to public emergency situations. There have been no legislative changes in respect of public emergencies during the time span covered by this report.

50. The Government is, however, planning to undertake in the course of 1997 a more in-depth systematic review of the legislation pertaining to public emergency situations in the defence field with respect to its consistency with international standards, although Norwegian legislation in this field is believed already to be consistent with applicable international instruments. In the review process, the main focus will be on consistency with minimum humanitarian standards and other not legally binding international standards pertaining to public emergency situations in the "grey area" between human rights law and the law of armed conflict. National laws and regulations will also be reviewed in light of relevant international law, including the International Covenant on Civil and Political Rights.

51. No state of public emergency has been declared in Norway during the period covered by this report.

Article 5

52. The principles of interpretation set out in article 5 are closely related to the principle that legislative texts shall be construed with a view to the aim and purpose of the instrument. This principle has a strong position in Norway.

Article 6

Death penalty

53. There have been no new developments regarding the death penalty in Norway in the period covered by this report.

Positive action taken to increase life expectancy

54. Infant mortality. The following statistics show the rate of infant mortality in Norway:

	1990	1991	1992	1993	1994	1995
Infant mortality rate (deaths within first year of life per 1,000 live births)	7.0	6.4	5.9	5.1	5.2	4
Perinatal mortality rate (stillbirths and deaths in the first week of life per 1,000 births)	7.7	5.5	5.3	5.1	5.3	4.1

55. In order to reduce perinatal and infant mortality, the central authorities have continued the efforts described in paragraph 44 of Norway's third periodic report to improve the care of expectant mothers and newborn babies. The following update may be given:

(a) Perinatal committees contribute to improving the quality of prenatal and maternity health-care services, and take part in the continuing education of health personnel at hospitals and in primary health-care services. These committees will on a continuous basis identify factors of relevance to the death or illness of the foetus or newborn baby;

(b) From 1995 midwifery services were made compulsory by law. Prenatal care and family planning are now a part of the services offered by local public health centres;

(c) The number of pregnant daily smokers has been reduced from 35-40 per cent in 1987 to about 20 per cent in 1995. Day-courses are given in all counties to qualify personnel working in prenatal care to help smokers to give up tobacco;

(d) A significant reduction has been attained in the number of SIDS (sudden infant death syndrome) deaths per year. A booklet for pregnant women and families with newborn babies has been distributed;

(e) The period of maternity leave has been extended from 26 to 45 weeks with full pay, three weeks of which must be taken before the expected date of delivery. In addition, men may have four weeks' leave. Regulations have also been introduced to ease pregnant women's work by protecting them from improper working conditions;

(f) For three years (1993-1995) a Baby Friendly Initiative was carried out in Norway. It had two main objectives: making it easier for women to start breastfeeding and promoting an increase in the duration of breastfeeding to 4-6 months for exclusive breastfeeding and throughout the first year for partial breastfeeding. This is expected to have a significant impact on the health of all children;

(g) In 1993 attention was focused on the importance of folate (vitamin B in particular) intake before and during pregnancy for preventing the occurrence of neural tube defects. Research shows that intervention among women may result in considerable health gains in terms of reducing neural tube defects. This will be a new challenge in the years to come.

56. HIV and AIDS. As of 30 June 1996 there were 522 reported cases of AIDS in Norway, affecting 447 men and 75 women. Of these, 431 (82.6 per cent) have resulted in death. There were 1,592 reported cases of HIV infection, affecting 1,207 men and 385 women.

57. The National Board of Health drew up a second plan of action to prevent the spread of the HIV virus for the period 1990-1995. The Ministry of Health and Social Affairs is now considering a third plan of action for the period 1996-2000. The new plan provides for the same framework and scope of

activities as the former plans (see paragraphs 46 and 47 of Norway's third periodic report) and is based, among other things, on cooperation with the NGOs representing high-risk groups and patients.

58. Traffic deaths. The following statistics show the number of traffic deaths in recent years:

1993:	281
1994:	283
1995:	305

59. During the first six months of 1996 111 persons died in traffic accidents.

60. Eighteen children died in traffic accidents in 1995. The number of children killed in 1994 was 15, which is the lowest number of children killed in traffic accidents in Norway in recent history. The 1994 statistics show a reduction in the number of children killed by almost 50 per cent compared with 1985, and a reduction by approximately 80 per cent compared with 1975.

61. The fight against drunk driving is a priority matter, and in 1996 the Norwegian police started to use breathalysers to measure the exact level of alcohol in a person's body. This method is simpler and faster than the traditional blood test, and the new procedures require less police resources. Hopefully, this will enable Norwegian authorities to intensify traffic control, and thereby reduce the number of traffic accidents.

62. Deaths caused by narcotics. The following statistics show deaths caused directly by the use of narcotics:

1993:	95
1994	124
1995:	132

63. During the first eight months of 1996 122 persons died as a direct consequence of their drug abuse. These figures indicate an increase in the number of deaths from narcotics.

64. The majority (74) of the deaths in 1996 occurred in Oslo and other urban centres. The average age of the persons who died was 37 (men) and 33-34 (women).

65. In order to prevent deaths caused by drug overdoses, the city of Oslo established a special street patrol team in 1992. The team responds to emergency calls in the Oslo area. The following statistics show the number of cases in which they have assisted:

1993:	680
1994:	942
1995:	1,200

66. In about 40 per cent of the cases medication (antidote) was needed.

67. The team regularly arranges courses for drug addicts, explaining how to avoid taking an overdose and how to avoid HIV infection. Such information is also given in an information folder printed by the team and handed out to drug addicts.

68. If the same person has taken several drug overdoses within a short period of time, the health authorities will apply special measures, with the consent of the addict. Under Norwegian legislation, health authorities may also place a person in custody for health reasons without consent (see the present report under article 9). In 1995, the Oslo patrol team reported six cases in which this had been done.

69. Crime. Over the last few years the number of homicides has been stable. The figures below show the number of murders investigated:

1990:	44	(all cases solved)
1991:	56	(one case unsolved)
1992:	41	(all cases solved)
1993:	41	(all cases solved)
1994:	27	(all cases solved)
1995:	33	(one case unsolved)

70. In paragraph 53 of Norway's third periodic report, it was mentioned that the Director of Public Prosecutions had attempted to influence the courts to impose longer sentences in cases of manslaughter. Although the penalty for manslaughter is 6-15 years' imprisonment (and in some instances up to 21 years of imprisonment), the sentences imposed by the courts at the time of the last report were 7-8 years' imprisonment in most cases. The Director of Public Prosecutions saw this as a negative trend, and underlined the need for more severe sentences in such cases. However, the actual sentences imposed by the courts in cases of manslaughter have been stable at a level of 7-8 years' imprisonment since 1992.

71. The use of firearms by the police. In the period 1991-1995, three persons were killed by shots fired by the police. Four persons were injured. All of these cases were investigated by the special investigative bodies established pursuant to section 67 of the Criminal Procedure Act (see the present report under article 2, paragraphs 21-26). However, during this period none of the police officers in question has been convicted. The cases have either been dropped, or the accused have been acquitted by the courts.

72. Euthanasia. Euthanasia is prohibited under Norwegian law, and persons who perform euthanasia risk prosecution and conviction. Euthanasia has been discussed at many levels in Norway during the last year, following a case where a doctor gave a morphine overdose to a seriously ill woman (in accordance with her own wishes), from which she died. Certain organizations and groups are exerting pressure on Norwegian authorities, focusing on the question of legalization of euthanasia. However, for the time being there are no concrete plans for the legalization of euthanasia.

Article 7

Other international supervisory mechanisms

73. Norway's first additional report to the Committee against Torture (CAT/C/17/Add.1) was submitted in June 1992, and the second additional report will be submitted in January 1997. In addition, it should be noted that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Norway from 27 June to 6 July 1993. In its report, which the Norwegian authorities requested be published, the CPT described in detail conditions at police establishments, prisons and a centre for asylum seekers, and made recommendations for improvements. A copy of the report is enclosed as appendix 3. As part of its ongoing dialogue with the CPT, the Norwegian Government responded to the report on 14 September 1994 and submitted a follow-up report on 9 March 1995. These reports are enclosed as appendices 4 and 5.

Sexual abuse of children

74. In Norway's third periodic report, paragraph 62, mention was made of a working group appointed in 1989 to consider the need for a reform of the Penal Code and the provisions governing compensation for victims. The working group's report (NOU 1990: 13) was followed by a bill submitted to the Storting during the autumn of 1991 (Ot prp nr 20 1991-92)), and the proposed amendments were later adopted. First of all, the penalty levels in cases regarding sexual abuse of children were increased, and the period of criminal liability in these cases was prolonged. Secondly, the provisions governing compensation to the victims from the offender were amended to allow for an increase in the amount of compensation. A new provision prohibiting the possession and importation of pictures, films or videos showing children in an indecent or pornographic manner was also adopted.

75. It should also be noted that Norwegian law authorizes prosecution of serious sexual offences abroad against children under the age of 14 even if the act does not constitute an offence in the State in which it has taken place.

76. Section 20 of Act No. 19 of 5 May 1995 relating to day-care centres requires applicants for work in nursery schools/kindergartens to present a police certificate. Persons who have been convicted of sexual offences against children cannot be employed. Similar provisions relating to other professions and agencies dealing with children are being considered by several ministries.

77. In December 1995 the Government appointed a new committee to consider the need for a revision of chapter 19 of the Penal Code, which contains the provisions regarding felonies against public morals, such as sexual abuse against children and in general, incest and the dissemination of pornographic material. The committee is due to deliver its report at the end of 1996.

Prisons and police custody

78. Information on prisons and legislation relating thereto is mainly given under article 10 in the present report. The following may, however, be noted in this context.

79. The figures below show the extent to which the most severe coercive and disciplinary measures are used in Norwegian prisons:

Year	Security cell (number of times)	Security bed (number of times)	Solitary confinement (number of times)
1991	269	10	1 003
1992	290	16	935
1993	201	7	875
1994	160	12	946
1995	224	4	(figures not yet available)

80. The use of security cells and security beds are in most cases limited to a period of time of less than 24 hours. Solitary confinement usually lasts 2-3 days.

81. Due to necessary renovation of the Oslo County Prison in 1996, 87 custody cells were temporarily closed down. In the meantime cells intended for persons remanded in police custody had to be used as regular custody cells. Special arrangements were made in order to create suitable conditions in the cells; beds were brought in, the inmates were given the opportunity to take daily showers, and they were allowed to leave the cells as in a regular custody ward in a prison. However, conditions in the police custody cells were not as good as in a prison custody ward, and the inmates' situation was heavily criticized in the media.

82. The Prison Board made various attempts to remedy the situation, and developments in the case were monitored continuously. In particular, it was important to make sure that the inmates who had been in police custody cells for the longest time were the first to be transferred to cells in prison custody wards when such cells were available. In a forthcoming report to the Storting on the future care and confinement of criminals, the capacity problems in Norwegian prisons will be further assessed.

Extradition

83. The Norwegian Extradition Act of 13 June 1975 states in section 6 that extradition may not take place if it may be assumed that the life or freedom of the person concerned is in danger for reasons of race, religion, nationality, political convictions or other political circumstances. Section 7 states that extradition may not take place if it would be in conflict with fundamental humanitarian considerations, especially on account

of the person's age, condition of health or other circumstances of a personal nature. In this connection, mention may be made of an extradition case which has received considerable attention.

84. In September 1993 three Iranian nationals hijacked a Russian aeroplane in Azerbaijan and demanded that it be flown to Norway via Russia. The Russian Government subsequently requested extradition of the three hijackers. However, the hijackers cited the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention on Human Rights, claiming that their state of health, the low standard of Russian prisons and the difficult conditions for Russian prisoners would be an obstacle to extradition to Russia.

85. The Municipal Court sitting as a court of examination and summary jurisdiction ruled that the criteria for extradition were met. The ruling was appealed to both the Court of Appeal and the Supreme Court, but the appeals were dismissed. In August 1994 the Norwegian Ministry of Justice decided to extradite the hijackers. The decision was upheld after an appeal to the King in council. The authorities took account of the considerations mentioned in sections 6 and 7 of the Extradition Act and the objections raised by the hijackers, as well as the Government's international obligations. The Ministry of Justice considered it decisive that the aircraft hijacking was an extremely grave offence, that it was carefully planned, and that it was an act that put passengers and crew in great danger. Extradition was granted on several conditions, inter alia that the death penalty must not be imposed, and that the persons extradited must not be deported to the Islamic Republic of Iran, even after they had served their sentences.

86. The hijackers requested that the European Commission on Human Rights order a stay of extradition pending the outcome of an application to the Commission. The request was rejected by the Commission in January 1995. The extradition to Russia took place later that month.

87. Norwegian authorities have been monitoring the conditions for the hijackers in Russia. Representatives from the Norwegian embassy in Moscow have made several visits to the prison to make sure that their situation is satisfactory, and the embassy has had regular contact with Russian authorities and the Russian lawyer who has been appointed. The United Nations Special Rapporteur on the question of torture has made inquiries into the case, and he expressed his satisfaction with regard to the visitation arrangements. In December 1996, one of the hijackers was sentenced to five years and six months' imprisonment, whereas the other two hijackers were sentenced to five years' imprisonment.

88. Humanitarian considerations were also in question in another extradition case which received wide media coverage. The case concerned a 1977 incident where a German aircraft was hijacked. One of the hijackers, a Palestinian national, was extradited from Norway to Germany in November 1995, following a German request made in October 1994. The Palestinian claimed that her state of health, her relationship with her daughter and the long period of time that had passed since the hijacking would be sufficient grounds to deny extradition to Germany.

89. After a series of appeals the case was tried several times at all three court levels. The Court of Appeal finally found that the criteria for extradition had been met in this case. The decision was upheld by the Supreme Court. On 10 October 1995 the Norwegian Ministry of Justice decided that extradition should take place. The appeal against this decision was dismissed by a Royal Decree of 24 November 1995.

90. The humanitarian considerations in the case were carefully assessed both by the courts and the Ministry of Justice. It was found that the arguments against extradition were not, either individually or as a whole, important enough to warrant non-compliance with the request for extradition. The hijacking was considered a very grave offence, bearing in mind that the hijacking lasted five days, that the hijackers carried weapons and explosives, that the flight captain was shot and killed, and that the hijacking endangered the lives of both passengers and crew. It was therefore maintained that the German authorities had a strong legitimate interest in bringing the defendant to trial in Germany.

Use of coercive measures towards mentally retarded persons

91. As mentioned in paragraph 70 of Norway's third periodic report, a committee was appointed in 1990 to look into the need for new regulations and control mechanisms as a result of the reform concerning care for mentally retarded persons. Based on proposals presented in the committee's report and a subsequent study, the Storting, by Act No. 60 of 19 July 1996, added a chapter 6A to Act No. 81 of 13 December 1991 relating to Social Services. The chapter contains provisions relating to the rights of and the restriction and control of the use of coercion and force towards certain mentally retarded persons. A translation of the chapter is enclosed as appendix 6.

92. According to section 6A-3, coercive measures can only be applied when professionally and ethically justifiable. The interventions must go no further than is necessary for the purpose, and must be in proportion to the purpose to be achieved. The use of methods of punishment or treatment which are degrading or offensive to personal integrity is not permitted. The Act does not contain specific descriptions of the measures which may be used. It provides for a system of supervision. The provisions apply wherever health and/or social services are provided.

93. Before the Act was adopted, there was a heated public discussion on whether the bill was in compliance with the requirements of the international human rights conventions. After looking more thoroughly into the question, the Government withdrew one of the proposed provisions, proposed some amendments and gave more explicit guidelines as to the interpretation of the bill. The Storting nevertheless made some further amendments before adopting the bill, and decided that the Act should only be in effect for three years. This was done in order to ensure that an evaluation of the new legislation will take place.

Research

94. Based on the report of a committee appointed by the Government (NOU 1991: 6), the Government in 1993 submitted a white paper to the Storting

concerning guidelines for research and development in the fields of biotechnology and genetics and guidelines for research involving human beings (St meld nr 25 (1992-93)). A summary of the white paper is enclosed as appendix 7. The white paper was followed by a bill (Ot prp nr 37 (1993-94)), and the result of these initiatives is Act No. 56 of 5 August 1994 on Medical Use of Biotechnology. In broad terms the Act can be said to pursue the following main objectives:

(a) To regulate all the possibilities and dangers inherent in modern biotechnology;

(b) To safeguard the patients' interests and their legal position;

(c) To balance the collective interests of society against the interests of patients, and of medicine and research, and to make judicious choices in striking this balance;

(d) To arrive at legal solutions with regard to complex ethical problems.

Article 8

95. Reference is made to the information given in Norway's previous periodic reports. There are no changes or new developments to report under this article.

Article 9

Arrest and remand in custody in general

96. Reference is made to the information given in Norway's second periodic report (paras. 39-46) and Norway's third periodic report (para. 94).

Committal to mental hospitals and to institutions for persons who abuse intoxicating substances

97. The Norwegian Ministry of Health and Social Affairs is at present preparing new legislation concerning measures targeted at people with mental illnesses. In keeping with the principles laid down in current legislation, the intention is to ensure that persons with mental illness are given fair and proper medical treatment and legal protection. The new legislation will partly be based on proposals made in the report mentioned in paragraph 83 of Norway's third periodic report (NOU 1988: 8).

98. Chapter 6 of the Act of 13 December 1991 relating to Social Services contains provisions governing special measures directed towards persons who abuse intoxicating substances. According to section 6-2, if such persons endanger their health by substantial, lasting abuse, it may be decided that they shall be admitted to an institution for a maximum of three months. Such a decision may only be made if the institution is able to offer the person in question satisfactory help. Approximately 40 decisions have been made under this provision since it entered into force.

99. According to section 6-2 a, which was added by Act No. 41 of 23 June 1995, it may be decided that a pregnant woman who abuses an intoxicating substance shall be held in an institution throughout her pregnancy, if the abuse is such that there is an overwhelming probability that the child will otherwise be injured. The social service shall, at least every third month, consider whether it is still necessary to keep the woman institutionalized. Less than 10 cases have been decided upon under this provision during the first five months after it entered into force.

100. A decision to deprive a person of liberty pursuant to a provision in chapter 6 of the Social Services Act may be brought before the courts. According to the Social Services Act, section 9-10, the procedure set out in chapter 33 of the Civil Procedure Act (see Norway's second periodic report, paragraphs 47-49) applies.

Imprisonment of foreign nationals

101. The provisions concerning imprisonment of foreign nationals in section 37 of the Immigration Act were amended in August 1992. Section 37, fifth paragraph, now reads as follows (amendment underlined):

> "If there is reason to suspect that a foreign national has given a false identity, the police may direct the foreign national to report or to stay in a particular place []. If such an obligation is not complied with or is deemed to be clearly insufficient, the foreign national may be arrested and remanded in custody <u>in accordance with the procedure in sections 174 et seq. of the Criminal Procedure Act, which otherwise applies insofar as the provisions are appropriate. The total period of custody may not exceed 12 weeks unless there are special grounds</u>."

102. Originally, the total period of custody was limited to two weeks, unless special grounds made it necessary to prolong the period. A total period of only two weeks was, however, found to be insufficient. In many cases it was difficult for the police to conclude the verification of a person's identity within 14 days. A total period of custody of 12 weeks is sufficient in most cases. However, section 37, fifth paragraph, does provide an opportunity to extend the custodial period, provided that special grounds make it necessary. This may for instance be the case in situations where the foreigner in question actively obstructs the efforts made by the police to verify the person's identity.

103. Statistics show that the number of imprisonments has decreased since the amendments entered into force in 1992. The first year after the amendment entered into force, 120 foreigners were imprisoned. Of these, 31 persons were imprisoned for more than 12 weeks (verifications showed that all had given a false identity). On 31 March 1996, 12 foreigners were imprisoned. Of these, 3 persons had been imprisoned for more than 12 weeks.

104. However, after death of an unidentified foreigner in his cell due to a fire, there has been some criticism and public debate relating to the detention of unidentified foreigners. The Parliamentary Ombudsman for Public Administration has also taken an interest in this issue. The Ministry of

Justice is at present assessing the need for a revision of section 37, fifth paragraph. The assessment will, inter alia, address the question of whether the conditions for imprisonment should be made stricter.

Custody

105. In the majority of cases, persons are held in custody for a relatively short period of time - a little more than one month. In a few cases, however, the period of custody is very long, and since 1992 there has been an increasing number of cases involving long periods of time spent in custody. The average duration of custody of the approximately 3,000 cases per year (the number of persons remanded in custody has been relatively stable since 1988) is at present approximately two months. For between 100 and 200 cases, custody lasts for one year or more. Statistics from 1995 show that a total of 158 persons were in custody for more than a year. Of these, 28 were in custody for more than three years. The longest custody lasted for three years and two months.

Compensation for detention

106. The Standing Committee for Criminal Law Reform, which was mandated to consider the need for a revision of the provisions governing compensation for persons who have been investigated, arrested and/or prosecuted in a criminal case, presented its report in September 1996 (NOU 1996: 18). If adopted, the Committee's proposals will entail that all persons who have been arrested, and subsequently are acquitted or have their case dismissed, have an unconditional right to compensation. The Ministry of Justice has recently asked relevant organizations and institutions to comment on the proposals.

Article 10

Prisons

107. In paragraph 63 of Norway's third periodic report, mention was made of a report containing a bill for a new Prison Act, intended to replace the current Prison Act of 1958 (NOU 1988: 37). The proposals made in the report are still under consideration by the Ministry of Justice.

108. The Prison Regulations were amended in 1993, increasing the opportunity to serve in open institutions. For all prisoners who have been sentenced to no more than three years' imprisonment, the main rule is now that they shall serve in an open institution, unless exceptional reasons indicate otherwise. Such exceptional reasons could be that the prisoner in question is a drug addict, or that he or she is under investigation in a new criminal case. It should be noted that serving time in an open institution will only be available in cases where there are no security risks involved, and where the arrangement is likely to promote the reformation and social rehabilitation of the prisoner. Prisoners sentenced to more than three years' imprisonment have to serve a considerable part of their sentence in a closed prison before they can be transferred to an open institution. However, exceptions can be made in cases where the prisoner is a juvenile.

109. There is room for 948 prisoners in open institutions in Norway (one third of the total prison capacity). In 1994, 81.6 per cent of the places were filled. Statistics show that the number of prisoners escaping from open institutions is no higher than the number of prisoners escaping from closed prisons. The same applies to the number of prisoners who do not return from their leaves.

110. More and more prisoners, primarily prisoners who are drug addicts, are serving their time in so-called contract wards. At present almost 20 per cent of all prisoners serving time in Norway have signed contracts in which they promise not to use drugs and to accept routine urine sampling, among other things. This project has proved to be very successful, and serving on contract seems to be a good start in the prisoners' rehabilitation process. The prisoner has to be motivated to do something about his or her drug problem, and each prisoner has to assume responsibility for his or her own life situation.

111. As regards measures to promote the reformation and social rehabilitation of prisoners, the following new projects should be mentioned:

112. The project "Pathfinder" was initiated by the Ministry of Justice and the Ministry of Health and Social Affairs in 1991. The aim is to help male abusers of drugs and alcohol, and the project is organized as a cooperative exercise between the prison on the one hand and a rehabilitation centre on the other. The male inmates are offered systematic treatment, and as part of the programme the men will be transferred to a rehabilitation centre outside the prison.

113. Hassel County Prison was established in 1992 as an open prison for male drug addicts serving on contract (see above). The prison offers interdisciplinary help during imprisonment and after the prisoners' release, and the aim is long-term rehabilitation of the inmates.

114. The project "Motivation and Responsibility" has been established for female inmates in Bredtveit Prison in Oslo. It is designed to help women with drug-related problems, but the programme is also open to women with problems of a psychosocial nature. The project's aim is to help the female prisoners in the rehabilitation process after their release, and considerable effort is put into establishing close cooperation between the prison and local authorities.

115. A new project called "New Start" will be launched in the near future, introducing the Canadian programme "Cognitive Skills Training" in four prison institutions. The intention is to give prisoners new social and mental skills, in order to facilitate their rehabilitation.

116. A special programme for persons convicted of drunk driving was introduced in 1995. At present, the project is being tested in five counties. The programme is meant to be an alternative to imprisonment for the convicted persons, but it does not represent a more liberal policy as compared with traditional prison punishment. The programme is tailored to the requirements

of each individual in question and includes, among other things, 20-30 hours of teaching, alcohol abuse treatment and close follow-up and control after the end of the programme.

117. As far as possible, the authorities try to avoid placing young offenders in prison. Enclosed as appendix 8 are statistics for 1994 showing the type of sanction and the age of the offender. Appendix 9 shows the age of the prisoners at the beginning of the year and the age of new prisoners.

118. In relation to article 10, it may also be mentioned that Act No. 67 of 20 July 1991 relating to the Transfer of Sentenced Persons allows certain foreigners who are convicted in Norway to serve their sentences in their home country.

Article 11

119. Reference is made to Norway's second periodic report (paragraph 56) and to the third periodic report (paragraphs 115-117). There are no changes or new developments to report under this article.

Article 12

Freedom of movement within the realm

120. Pursuant to sections 59 and 60 of the Immigration Regulations laid down in pursuance of section 17, fifth paragraph of the Immigration Act, a foreign national who applies for asylum must reside in the municipality to which he or she has been assigned until the application has been finally decided. Asylum applicants are placed in a reception centre in the municipality to which they are assigned. They can be moved from one reception centre to another within the same municipality or to another municipality. Exceptionally, an asylum applicant may be given permission to reside outside the municipality to which he or she has been assigned on condition that he or she will not require subsistence from the State.

121. Norway's third periodic report (paragraph 120), mentioned that section 7 of the Immigration Act provides that a work permit or residence permit granted to a foreign national confers the right to reside in the whole of the realm unless restrictions are stipulated in accordance with rules contained in or pursuant to the Act. According to section 43, paragraph 1, of the Immigration Act, a foreign national's right to choose his or her place of residence freely may only be restricted when national security or compelling social considerations make this necessary.

122. After consideration of Norway's third periodic report, the Committee expressed concern about the vagueness of the criteria "compelling social considerations" and its conformity with article 12 of the Covenant. It should be noted that the provision was intended as a safeguard in extreme circumstances and that it will only rarely be invoked in practice. Although the Immigration Act has not been amended in light of the Committee's comments, "compelling social considerations" have not been invoked in the period covered by the present report.

Freedom to leave the country

123. Since Norway submitted its third periodic report, Act No. 86 of 26 June 1992 relating to Enforcement of Civil Claims has entered into force. Sections 14-17 to 14-21 contain rules whereby a debtor under certain conditions can be prohibited from leaving the country. The rules apply to all types of claims, including claims for alimony.

124. A debtor can be prohibited from leaving the country when he or she is in the process of leaving the country under such circumstances that it is unclear whether he or she will return. A prohibition order can only be issued if it is essential for the purposes of enforcement and seizure of property does not provide sufficient security. A prohibition order cannot be issued if, in view of the nature of the case and all of the circumstances involved, it would be a disproportionately severe reaction.

125. A prohibition order cannot be issued in respect of a person who is not permanently resident in Norway for claims which cannot be brought before the Norwegian courts.

126. As a general rule, application for a prohibition order is made to the court of execution and enforcement. Where the court grants such an application, it shall also order the debtor's passport to be confiscated. If necessary, but only under particularly serious circumstances, the debtor can be remanded in custody, or other restrictions may be imposed on his liberty. In this case, the debtor will always be called in for negotiations.

127. If in the course of carrying out the prohibition order it is discovered that the debtor has seizable assets, the authority responsible for carrying out the prohibition order shall seize such assets instead.

128. The Enforcement of Civil Claims Act contains several grounds upon which a prohibition order shall automatically cease to have effect. In any event, the order and any other restriction on the debtor's liberty shall automatically cease to have effect after three months, unless the court orders that they shall cease to have effect from an earlier date.

129. Pursuant to section 102 of Act No. 58 of 8 June 1984 relating to Debt Negotiations and Bankruptcy, a debtor who is subject to bankruptcy proceedings cannot without the consent of the bankruptcy court leave Norway, or in violation of a prohibition issued by the bankruptcy court leave the jurisdiction of the court or a specified area around it.

130. Pursuant to section 105, first paragraph, the bankruptcy court can impose restrictions on the debtor's liberty when there is reason to believe that he will breach the provisions of section 102. The restriction of liberty may consist in the debtor being apprehended and brought before the bankruptcy court or the executive trustee, or placed in custody or subjected to other restrictions on his personal liberty as further decided by the court. Restrictions of liberty may be made for a duration of not more than three weeks at a time, but can be renewed by the court (sect. 105, second paragraph). When a decision to restrict the debtor's liberty has been made without oral negotiations, the bankruptcy court shall, if so requested by the

debtor or the board of trustees, summon the parties to oral hearings to deal with the matter as soon as possible. If the restriction of liberty takes the form of custody, the bankruptcy court will call the hearing on its own initiative.

131. In September 1990, the Ministry of Justice appointed a committee to draft an Act on Passports. The Committee delivered its report in August 1994. The bill contains rules regarding, inter alia, the right to and conditions for obtaining a passport, the passport authority, impediments to obtaining a passport and confiscation of passports. The bill has been sent to interested bodies and agencies for their comments, and a proposition to the Storting is being prepared.

Article 13

Case law relating to expulsion

132. The legislation regarding expulsion which was described in Norway's third periodic report has not been amended in any significant way during the period covered by this report.

133. As far as practice is concerned, however, the Supreme Court has recently delivered four important judgements concerning expulsion of foreign nationals (see the Norwegian Law Gazette 1995, p. 72 et seq., Law Gazette 1996, p. 551 et seq., p. 561 et seq. and p. 568 et seq.).

134. In the decision published in the Law Gazette 1995, page 72 et seq., the Supreme Court defined the extent to which the courts can review the discretion exercised by the Ministry of Justice in pursuance of section 30, third paragraph, of the Immigration Act. Section 30, second paragraph, states the grounds upon which a foreign national who satisfies the requirements for a settlement permit may nevertheless be rejected or expelled. This may take place if necessary for the national security (subparagraph a), or when the foreign national has been convicted of an offence (subparagraph b). Section 30, third paragraph, provides as follows:

> "Expulsion pursuant to the second paragraph, [subparagraph] b shall not be ordered if in consideration of the seriousness of the offence and the foreign national's connection with the realm, this would be a disproportionately severe reaction against the foreign national himself/herself or the closest members of his or her family."

135. The Supreme Court held that the courts can exercise control over the Ministry's exercise of its discretionary powers in that they can define the more detailed contents of the statutosy provision and determine whether the Ministry has kept within the limits laid down by statute. Furthermore, the courts can judge whether the Ministry has based its decision on relevant facts, whether irrelevant circumstances have been taken into consideration, and whether there has been an abuse of power or arbitrariness, or such a degree of unreasonableness that it must affect the validity of the decision. Beyond this, however, the courts cannot try the Ministry's exercise of discretion pursuant to section 30, third paragraph, and are bound to respect

the Ministry's decision as to whether expulsion pursuant to the second paragraph would be a disproportionately severe reaction against the foreign national or the closest members of his or her family.

136. A second issue in this decision, and the sole issue in the three other decisions, was whether expulsion pursuant to section 29, first paragraph, subparagraph b (cf. sect. 30, second paragraph, subparagraph b), represented a breach of the foreign national's right to respect for family life pursuant to article 8 (2) of the European Convention on Human Rights (which corresponds to article 17 of the Covenant).

137. In the decision published in the Norwegian Law Gazette 1996, page 551 et seq., the Supreme Court took the opportunity of discussing in detail the principal considerations involved when issuing expulsion orders. Reference was made to evidence given by the Ministry of Justice that the most important issue in the majority of expulsion cases was whether expulsion would be a disproportionately severe reaction against the foreign national or his family. The Ministry had stressed that in its consideration of the proportionality of expulsion, due regard is given to Norway's international obligations, and in particular to the practice of the European Court of Human Rights. It was also stressed that due regard is given to the provisions of the Convention on the Rights of the Child, although reference to the Convention is rarely made in the deportation order. Due regard to the Convention is, however, in line with section 4 of the Immigration Act, which states that the Act shall be applied in accordance with international rules by which Norway is bound when these are intended to strengthen the position of a foreign national.

138. The Supreme Court found that application of article 8 (2) of the European Convention on Human Rights gives rise to two separate issues: firstly, whether the criteria for the expulsion order, and thereby the Immigration Act which is the authority for the order, are compatible with article 8 (2), i.e. whether they promote legitimate interests. Secondly, whether it was necessary to expel the foreign nationals in question in order to promote the said interests, assuming they are legitimate.

139. As regards the first issue, the Supreme Court found that prevention of the risk of disorder and crime in general were legitimate interests, and that it was not necessary to prove that there was a concrete risk that the foreign national in question would commit new criminal offences. With regard to the question whether expulsion was necessary, the deciding factor, according to the Supreme Court, is whether deportation is proportionate to the negative consequences it will have for private and family life.

140. In all cases, the strength of the argument in favour of expulsion will depend upon the gravity of the offence of which the foreign national is convicted. The strength of the argument against expulsion will depend upon the foreign national's ties with Norway. The Supreme Court stated that, in general terms, such ties will be weaker in cases where the foreign national was given a settlement permit as an adult than where he came to Norway as an infant and has lived here ever since. Whilst recognizing that the circumstances of each individual case can vary enormously, the Supreme Court stated that where a foreign national has been given a settlement permit as an adult, his personal ties to Norway will not normally weigh very heavily if he

has been convicted of a serious crime. Another important factor is the foreign national's lack of ties to the country of which he is a citizen, and to which he presumably will be expelled. Close ties with the country of domicile will often, but not always, correspond with loose ties to the country of citizenship, and vice versa.

141. The Supreme Court also stated that the foreign national's right to family life must be seen in conjunction with his family's right to family life with him or her. The right to family life weighs heaviest in cases where expulsion necessarily will split the family unit. However, even in cases where it may be possible for the family to follow the expelled person to the country of which he or she is a citizen, regard must be had to the wishes of the other members of the family to remain in Norway, and to any language or cultural problems they may face if they move to that country.

142. In the particular circumstances of all four cases, it was clear that the foreign nationals had a private life and a family life in Norway. In all four cases, the factor which weighed heavily in favour of deportation was the serious nature of the crime of which the foreign national had been convicted. In the decision published in the Law Gazette 1995, page 72 et seq., the foreign national had been sentenced to three years' imprisonment for a particularly grievous rape of his 16-year-old daughter. In the other three cases, the foreign nationals were convicted of serious drug-related offences.

143. In all four cases the Supreme Court found that deportation was not disproportionate to the negative consequences it would have for private and family life.

144. In the decision published in the Law Gazette 1995, page 72 et seq., the Supreme Court found that in view of the gravity of the offence for which the foreign national was convicted, the requirement of necessity in a democratic society was satisfied. Further, in view of the close ties which the family had tc the foreign national's homeland and their relatively low degree of assimilation into Norwegian society, the Court found that they had a realistic choice of moving together with the foreign national or remaining in Norway without him. Given this choice, respect for family life did not outweigh the important public considerations which justified expelling a foreign national who was convicted of such serious criminal offences as those in question.

145. In the decision published in the Law Gazette 1996, page 551 et seq., regard was had to tne fact that the foreign national had moved to Norway when he was 25 years old and had since maintained ties with his homeland, where he still had family. The Court concluded that there was nothing in his personal ties to his homeland, nor in his personal ties with Norway, that constituted a substantial argument against expulsion. The strongest argument against expulsion in this case was his right to respect for family life, and in particular his family's right to family life with him. The Supreme Court found that the prospect of his family following him to his homeland had to be disregarded and that, on the basis of the facts of the case, expulsion represented a real danger that the family would be split. Notwithstanding, in view of the serious nature of the offence of which the foreign national had

been convicted, his and his family's right to respect for family life could not be paramount. The Supreme Court therefore upheld the Ministry of Justice's expulsion order.

146. In the decision published in the Law Gazette 1996, page 561 et seq., regard was had to the fact that the foreign national, his wife and children had lived in Norway for many years. All four children were born in Norway. However, both the foreign national and his wife had maintained contact with their homeland. There was a realistic prospect that the family could be reunited in the foreign national's homeland, and their chances of assimilation in the society of that country were good. The Supreme Court found that even if the foreign national's family chose to remain in Norway so that the family unit was split, expulsion could not be considered to be a violation of the right to respect for family life, in view of the gravity of the offences for which the foreign national had been charged.

147. Further, the Supreme Court found that the fact that the foreign national faced criminal charges in his homeland was not a sufficiently weighty argument against expulsion. The Norwegian authorities had assured themselves that the foreign national did not face the death penalty for the offence concerned. The Norwegian authorities had also been informed that any sentence the foreign national received would be reduced by virtue of the sentence served in Norway, and it was unlikely that there would be any significant sentence left to serve.

148. In the decision published in the Law Gazette 1996, page 568 et seq., regard was had to the fact that the foreign national had moved to Norway when he was only 12 years old and that he had lived in Norway for 20 years. His wife originally came from his homeland, although she was now a Norwegian citizen, as were their five children. Both he and his wife had maintained close contacts with their homeland, and their children spoke their native language. There were realistic prospects that the family could be reunited in the foreign national's homeland. The Supreme Court concluded therefore that expulsion did not violate the right to respect for family life.

Article 14

The Court Commission

149. In relation to the requirement in article 14 that tribunals which determine criminal charges or rights and obligations in suits of law shall be independent, mention may be made of the newly established Court Commission in Norway. The Commission, which is headed by the Chief Justice of the Supreme Court, has been asked to study and propose amendments as to the administration of courts in Norway. The background is that the principle of independence of courts has been interpreted to the effect that the other State powers shall not in any way interfere with the courts' judgements - but not to the effect that the Ministry of Justice cannot be responsible for the administration of courts. Thus, the Ministry advises the King on appointment of judges and decides upon disciplinary measures towards judges (to the very limited extent such measures may be utilized). Lately, it has been questioned, in particular by judges, whether the administration of the courts should still be carried out by the Ministry of Justice. There has also recently been a focus on the

sources of income of judges. The Commission shall look into the procedures for appointment of judges, disciplinary measures, and to what extent judges may hold other positions. It is explicitly stated in its terms of reference that the Commission shall take account of the requirements of the human rights conventions.

Fair hearing: Botten vs. Norway

150. In its judgement of 19 February 1996 in the case Botten v. Norway, the European Court of Human Rights found that there had been a violation of article 6, paragraph 1, of the European Convention on Human Rights, which corresponds to article 14, paragraph 1, of the Covenant. The reason for this was that the Supreme Court, after finding that the city court's acquittal of Mr. Botten was based on a misinterpretation of the relevant legislation, overturned the acquittal without summoning and hearing the defendant in person. The European Court of Human Rights reasoned as follows: the authority of the Supreme Court to overturn an acquittal without hearing the defendant (cf. section 362, paragraph 2, of the Criminal Procedure Act as applicable at the time), did not in itself infringe the fair hearing guarantee. However, the European Court of Human Rights was not convinced that the prosecution's appeal raised exclusively questions of law. Although facts relating to the question of guilt established by the city court were undisputed, the Supreme Court had to some extent to make its own assessment for purposes of determining whether they provided sufficient basis for convicting the defendant. Therefore, the Supreme Court should have summoned him. The Supreme Court was under a duty to take positive measures to this effect, notwithstanding the fact that the defendant neither attended the hearing, nor asked for leave to address the court, nor objected through his counsel to a new judgement under section 362, paragraph 2, being given by the Supreme Court.

151. The Supreme Court has taken due note of the judgement, and will in the future make sure that judgements are not passed in similar cases unless the defendant has been given an opportunity to be heard. A summary of the judgement has also been published in the periodical Mennesker og Rettigheter, and has been distributed to all the public prosecutors.

The right to be informed of the cause of the charge: a decision by the Supreme Court

152. The Supreme Court decision published in the Law Gazette 1994, page 636 et seq., concerned the right of the accused to read the statements of other persons accused in the same case, before he made a statement himself. The defence argued that access to these documents was necessary for the accused to know the reason for the charge (cf., art. 14, para. 3 (a)). Section 242 of the Criminal Procedure Act limits the rights of the accused to read such statements if it may prejudice the investigation. The Supreme Court found that denying the accused the right to read the statements of the other parties accused did not constitute a violation of the right to be informed of the cause of the charge.

The right to be tried without undue delay

153. As mentioned in Norway's third periodic report (paragraph 138), the authorities have set clear objectives regarding the time by which a trial in a criminal case should commence after the case has been brought before the court. The norm is a maximum of three months in the court of first instance and one month in the Court of Examination and Summary Jurisdiction. In appeal cases for the High Court the norm is now a maximum of three months. However, the largest courts, particularly in the main cities, still do not quite satisfy these norms. In the third periodic report, measures such as allotment of more resources, development of leadership and training of court employees, new technology and improved routines were mentioned as ways to improve the situation. All these measures have been carried out, and have contributed to reducing the average time for court proceedings. The average time for a criminal case recorded at each court as of 30 June 1996 was 2.1 months at first instance and 0.5 months at the Court of Examination and Summary Jurisdiction. In appeal cases for the High Court the average time was 3.5 months in jury cases. Training will continue to be provided for the employees. It is also necessary to consider whether and how technology could be used more efficiently.

154. Projects specially designed to accelerate criminal proceedings have been initiated in several places in Norway. The police and the prosecuting authority, the courts of justice, the prison administration and the administration for probation services all take part in these projects. The goal has been to improve routines and cooperation between these authorities. At some places quicker criminal proceedings have been achieved as a consequence of the projects.

Reading out in court of previous statements made by witnesses; decisions by the Supreme Court

155. Several Supreme Court cases concern the question of whether the reading out in court of previous statements made by witnesses constitutes a violation of the right of the defence to examine witnesses (cf. art. 14, para. 3 (e)). The question is dealt with in section 297 of the Criminal Procedure Act.

156. In the case published in the Law Gazette 1994, page 469 et seq., it was not considered a violation to read out the previous statement of the defendant's wife. The defendant was accused of having abused his wife, and it was probable that he had threatened his wife to induce her not to testify in court.

157. In the case referred to in the Law Gazette 1995, page 1295 et seq., the witness had committed suicide some time after having made his statement, but before the trial. He seemed to have been mentally disturbed at the time of the statement, and he had later orally tried to withdraw what he had stated. The Supreme Court stated that it would now be difficult to judge the correctness of the statement and that it therefore would be a violation to read out the statement in court. It was stated that account had to be taken of how crucial the evidence is, the nature of the case, whether there are reasons to believe that the statement might be incorrect and whether there are concrete questions that the accused would have reason to ask the witness.

158. In the case referred to in the Law Gazette 1995 page 1491 et seq., a police officer was asked what a witness had stated to him. The witness was not present in court, and the Supreme Court stated that this was a circumvention of section 297 of the Criminal Procedure Act and a violation of the right to a fair hearing.

Questioning of child victims of sexual abuse

159. In cases relating to the sexual abuse of children, the judge may, and usually does, decide that a child who is not yet 14 years old shall be questioned outside the courtroom (cf. the Criminal Procedure Act, section 239). The questioning shall be done by or under the supervision of a judge. In the latter case, the questions are usually asked by a psychologist or an experienced female police officer, while the judge is sitting behind a one-way mirror. Defence counsel of the accused is entitled to be present only if the judge so decides. If the defence counsel is present, he or she may not question the child directly, but through the person who questions the child. As a general rule, a video recording is made of the questioning session, and the video recording is shown during the main hearing.

160. This practice has been questioned in some quarters in relation to the right of the defence to examine witnesses (cf. art. 14, para. 1 and para. 3 (e)). The Norwegian Supreme Court has, however, stated that questioning the child without the presence of the accused and showing the video recording in court do not constitute a violation of the conventions, as long as the defence has had the possibility of asking questions through the judge, or if there is other substantial evidence against the accused. If, however, the questioning has not been done in a satisfactory manner, i.e., if leading questions were asked, it may be a violation of the conventions to refuse to question the child again. It is then necessary to decide whether another questioning will be fruitful and whether it will harm the child.

161. Section 239 of the Criminal Procedure Act was amended by Act No. 50 of 1 July 1994. When the amendment enters into force on 1 January 1997, the defence lawyer will as a general rule have a right to be present during the questioning.

Proceedings against juvenile offenders

162. As mentioned in paragraph 142 of the third periodic report, the Criminal Procedure Act does not establish a juvenile court system. Children over the age of 15 may be brought before the regular courts.

163. Act No. 100 of 17 July 1992 relating to Child Welfare Services has replaced the Child Welfare Act referred to in paragraph 142 of Norway's third periodic report. A translation of the Act is enclosed as appendix 10. The new Act does not give the prosecuting authority or the courts a possibility to transfer a case to the child welfare authorities. However, whenever investigations against a child take place, the police shall inform the child welfare authorities. These may, on their own initiative, take measures in order to help the child with his or her behaviour problems. The most severe measures are provided for in section 4-24, which reads:

"A child who has shown serious behaviourial problems

- in the form of serious or repeated criminality

- in the form of persistent abuse of intoxicants or drugs or

- in other ways

may without his or her consent or the consent of the person with parental responsibility for him or her be placed in an institution for observation, examination and short-term treatment for up to four weeks, or for a shorter period as specified in the order. In the event of a renewed order the period of placement may be extended by up to four weeks.

"If it is likely that a child as mentioned in the first paragraph is in need of more long-term treatment, an order may be issued to place the child in a treatment or training institution for up to twelve months without his or her consent or the consent of the person who has parental responsibility for him or her. In the event of a renewed order the period of placement may in special cases be extended by up to twelve months. The child welfare service shall continuously monitor the placement, and review the measure when the placement has lasted six months.

"If the placement has been implemented before the child reaches the age of eighteen, a measure pursuant to the first and second paragraphs may be implemented in the manner decided by the county social welfare board, even if the child in question reaches the age of eighteen during the period of placement.

"An order pursuant to the first and second paragraph may only be issued if the institution has the expertise and resources required to provide the child with satisfactory assistance in relation to the purpose of the placement."

Mediation boards

164. A system of municipal mediation boards represents an alternative to prosecution which is often used when the offender is less than 18 years old. A leaflet on the Mediation Boards is enclosed as appendix 11.

165. Act No. 3 of 15 March 1991 concerning Municipal Mediation Boards (cf. section 71 a of the Criminal Procedure Act) requires every municipality to have a mediation board to which non-lawyers are elected. The purpose is to mediate in conflicts where a person has caused damage or loss or violated someone's rights in other ways. The boards deal only with minor offences and will only deal with a case when the parties concerned agree and guilt is proved. An agreement reached with the help of the mediation board will be included in any criminal record. The boards accept criminal cases referred by the prosecution authority and other "suitable cases" where referrals may be made by the parties concerned or a public authority.

166. Both parties are supposed to work actively to find a solution, and consideration may be given to both the offender and the victim's situation. An agreement shall be made in writing and signed by both parties as well as the mediator. The agreement is often that the offender shall provide compensation to the victim, either by paying damages or by doing work for the victim.

167. The authorities are currently evaluating the system of municipal mediation boards. It appears that 50 per cent of the conflicts arise from stealing, 21 per cent from property damage, 13 per cent from other economic crime, 9 per cent from violence and threats and 6 per cent from other offences. The reports are very positive - 90 per cent of the conflicts are settled, and 96 per cent of the agreements are fulfilled.

Review of convictions and sentences

168. The Norwegian reservation to article 14, paragraph 5, was partially withdrawn on 19 September 1995. The reservation shall continue to apply only in two exceptional circumstances. The first are cases which are handled by the Court of Impeachment, a special court convened in criminal cases against members of the Government, the Storting, or the Supreme Court as such. Such judgements may not be appealed. The second are cases in which the defendant has been acquitted in the first instance but convicted by an appellate court. In such cases, the conviction cannot be appealed on ground of error in the assessment of evidence in relation to the question of guilt. If the appellate court convicting the defendant is the Supreme Court, the conviction may not be appealed at all.

169. The partial withdrawal of Norway's reservation has been made possible by significant amendments to the Criminal Procedure Act by Act No. 80 of 11 June 1993, to the effect that, apart from the exceptions described above, a convicted person no longer has a limited right to appeal a judgement in respect of the assessment of evidence in connection with the question of guilt. The amendments entered into force on 1 August 1995. (A new translation of the Act is enclosed as appendix 12.)

170. Since the reform, all criminal cases are dealt with by district or city courts at the first level. Appeals are made to one of the six High Courts. As a general rule, the appeals will first be considered by an appeals committee, which decides whether or not the appeal shall be promoted for retrial in the High Court (cf. the second paragraph of section 321 of the Criminal Procedure Act). If the maximum sentence of the offence in question is more than six years of imprisonment, the appeal will automatically be promoted (cf. sect. 321, third paragraph). The Supreme Court has, in a decision published in the Law Gazette 1996, page 793 et seq., ruled that the screening of appeals provided for in the second paragraph of section 321 does not violate article 14 no. 5 of the Covenant.

171. The number of appeals received by the High Courts in 1995 was lower than expected. During the first six months of 1996, the High Courts received a total of 1,410 appeals; 756 of these were appeals concerning the assessment of evidence in connection with the question of guilt. Approximately 40 per cent

of the appeals were promoted for retrial in the High Court. Both the total number of appeals and the number of appeals promoted for retrial in 1996 were approximately as expected.

Reversal of conviction: the Liland Case

172. In 1994, the High Court acquitted a man who in 1970 had been convicted of the murder of two persons, and sentenced to prison for life and up to 10 years of preventive detention. At the time of acquittal, he had spent more than 13 years in prison. In 1995 he was awarded compensation totalling NKr 13.74 million.

173. The case has received much attention in Norway. In 1995, the Government appointed a committee to examine the way the police and prosecuting authority had handled the case. The members of the committee were a High Court judge, a defence lawyer and a psychiatrist. In its report, NOU 1996: 15, the committee described the results of its study. The committee found that the proceedings had been inadequate in three main areas:

(a) The police inquiries had been too limited with respect to possible suspects and possible time of the misdeeds;

(b) The attitude towards the defendant shown by the public prosecutor during parts of the court proceedings in 1970 was subjective and condemning;

(c) The medical experts' inquiries and statements with respect to the time of the offence and the time of death were insufficient to some extent, and cooperation between the medical experts and the judicial actors in the criminal case had not been good enough.

174. The committee found that in view of the reforms carried out since 1970 relating to criminal procedure, in particular the reform of 1993 which makes it possible to appeal the assessment of evidence in connection with the question of guilt, the experiences gained from this case will have a limited impact on legislation now.

Article 15

175. There is nothing to add to the information supplied in Norway's previous reports under article 15.

Article 16

176. There is nothing to add to the information supplied in Norway's previous reports under article 16.

Article 17

177. The information provided in paragraph 148 of Norway s third periodic report still applies. Interference with privacy, family, the home or correspondence is not allowed unless so provided by law, and to a large extent

such interferences are penalized (see Norway's second periodic report, paragraphs 85-86). The following may be added regarding legislation authorizing or penalizing interference with privacy.

Telephone monitoring during investigation of narcotic offences

178. Provisional Act No. 99 of 17 December 1976 relating to Access to Telephone Monitoring in the Investigation of Violations of Legislation on Narcotics (see paragraph 149 of Norway's third report) was repealed and replaced by permanent rules in the Criminal Procedure Act, chapter 16 a, by Act No. 52 of 5 June 1992. The Regulation of 19 January 1979 (see paragraph 89 in Norway's second periodic report) has been repealed and replaced by Regulation No. 281 of 31 March 1995 on Telephone Monitoring in Narcotics Cases. The new legislation is mainly a continuation of the previous rules, but there have been some amendments. The most important amendments are:

179. Under the Provisional Act of 1976 the police were not allowed at any stage to make any use of excess information. Under chapter 16 a of the Criminal Procedure Act, excess information may be used in police investigations, but not as evidence in the trial. The main reason for the change is the overall duty of the police to prevent and investigate crime. The amendment is, however, not meant to lead to any change in the use of monitoring. According to the 1995 report of the Supervisory Boards, the use of excess information in investigations has been relatively limited. The Supervisory Board is following developments closely.

180. Under the Provisional Act of 1976, recordings from telephone monitoring could be used as evidence in court. Such evidence is now prohibited (sect. 216 i).

181. One year after the monitoring has ended, the suspect may upon request be told whether his or her telephone has been monitored. This applies only where the person is not under indictment. The court may in some cases decide that such information shall not be revealed (sect. 216 j).

182. As under the 1976 Act, it is not a requirement that a lawyer or another person representing the suspect shall be appointed during the investigation. The main reason for this is that such a representative would be of limited benefit to the suspect under investigation, as he or she would not be in a position to communicate with the suspect.

183. As mentioned in previous reports (see paragraph 150 in Norway's third periodic report and paragraphs 88-89 in the second periodic report), the legal protection of the individual is supervised by the Supervisory Board. The Supervisory Board is now appointed in pursuance of section 216 h of the Criminal Procedure Act and its terms of reference are now prescribed in chapter 2 of the Regulations. The composition and the terms of reference are essentially the same as under the 1976 Act. The Supervisory Board cannot decide that ongoing monitoring of a person shall be discontinued (section 14 of the Regulation), but it shall report its criticism to the Ministry of Justice and to the Director of Public Prosecutions (section 16 of the Regulation). In cases of unlawful telephone monitoring, the person may seek

compensation under chapter 31 of the Criminal Procedure Act. There have been no claims for compensation with regard to telephone monitoring.

184. The total number of telephones monitored was 360 in 1990, 467 in 1991, 426 in 1992, 402 in 1993, 541 in 1994 and 534 in 1995. The numbers from 1991-1995 include mobile phones, telefax machines and beepers. The number of cases in which telephone monitoring has been allowed has not increased. According to the Director of Public Prosecutions, the variation in numbers between the years is due to the different nature of the various cases. Furthermore, the suspects now tend to be more professional and mobile, and each suspect tends to use a larger number of phones, etc. It should also be noted that due to problems with monitoring certain types of mobile telephones, there is an increase in other control measures, such as investigation of telephone data. This development is followed closely by the Supervisory Board.

185. In the Supervisory Board's 1995 report, the Board expressed some concern regarding the grounds of inquiry courts (the city or district courts) in decisions where access to telephone monitoring had been granted. The Supervisory Board commented that in many cases the courts' grounds are not sufficiently elaborated for the Supervisory Board to be able to consider whether or not the requirements of the law have been satisfied. In view of this, the Supervisory Board has requested that the Ministry of Justice consider whether the Supervisory Board should be given powers to appeal the courts' decisions when to allow telephone monitoring. The Supervisory Board also refers to the fact that such powers have been given to the new Control Committee for the Secret Services in cases regarding national security (see below).

186. The annual reports of the Supervisory Board show that the Board received two complaints in 1993, none in 1994 and none in 1995.

Surveillance in cases regarding national security

187. In a report to the Storting in 1993 (St meld nr 39 (1992-93)), the Ministry of Justice dealt with various allegations concerning illegal activities of the Norwegian security and intelligence services. The Government's conclusion in the report was that the Government should investigate further to what extent there have been irregular political surveillance and registration, and irregular connections between officers in the security services and politicians in Norway since 1945.

188. In 1993 and 1994 several different commissions were appointed by the Government for the task of undertaking such investigations. The most extensive investigation, however, has been carried out by a commission appointed by the Storting in January 1994 (the "Lund Commission"). The Lund Commission, headed by Supreme Court Judge Ketil Lund, was given a mandate to investigate all circumstances concerning the question of whether and to what extent the Police Security Services, the Defence Security Services and the Defence Intelligence Services have been involved in any kind of unlawful or arbitrary surveillance and related activities, including irregular contacts with politicians, etc. in the period from 1945 and up to the present. By Act No. 6 of 25 March 1996 the Lund Commission was given special authority to

summon and hear witnesses directly. Previous and present government officials were released from their duty of secrecy in order to be able to provide information to the Lund Commission.

189. The Lund Commission delivered its 600-page report (hereinafter "the Report") on 28 March 1996 (Dokument nr 15 (1995-96)). The Report covers the whole period from 1945 to 1994. Most of the Report deals with questions relating to surveillance, etc. in the period up to 1970. As this period is mainly of historical interest today, the Lund Commission's comments regarding this period will not be dealt with in the following. Much of the Report also deals with Norwegian politics and contacts between politicians and the security and intelligence services, which falls outside the scope of this periodic report. In the following, the Report will be dealt with insofar as it pertains to surveillance and registration of private persons in the period after 1970. The Lund Commission's main conclusions in this respect are as follows.

190. The Police Security Services (hereinafter the "PSS") may only undertake surveillance when a person is suspected of having committed a crime listed in section 1, paragraph 2, of Act No. 5 of 24 June 1915 relating to control of postal and telegraphic communications and telephone conversations, and only when the interests of security so require. In the period from the late 1960s and up to the mid-1980s, registration by the PSS of members and sympathizers of revolutionary Marxist-Leninist organizations was unlawful in many cases because the level of suspicion leading to registration was too low. The Lund Commission's view is that the unlawful practice was mainly due to lack of efficient internal control in the PSS.

191. The Lund Commission found many cases of unlawful monitoring of telephones of persons in left-wing political organizations and newspapers, idealistic organizations in the peace movement, etc. up to as late as 1989. The necessary inquiry court order in the city of county courts was obtained in all cases, but the requirements of the law seemed not to have been satisfied in many cases. The Report concludes as follows on this (p. 19):

> "The commission's investigations have shown that the inquiry courts' decisions generally are very unsatisfactory. Most decisions are standard decisions. They only give a reference to, or a brief description of, the PSS' request and its grounds, declare that monitoring is required in the interests of national security, and that the aim is to provide evidence in a penal case. It is unsatisfactory that such decisions are made in the form of standard decisions which fail to prove that the court has made an independent and individual evaluation of each case. As a rule the criminal offences referred to in the police request which the standard decisions refer to are not very concrete and detailed grounds are not provided. Still, the inquiry courts' decisions almost never provide any independent evaluation of the case, not even where permission for monitoring is granted year after year, with no evidence appearing to substantially strengthen suspicion. Even though extension of the period of investigation must be accepted in cases of national security, the commission has found it contrary to the

law that the courts automatically have accepted that the monitoring be prolonged for years, without the appearance of any significant evidence with regard to the suspected criminal acts."

192. The Report concludes that the inquiry courts' control of telephone monitoring "has not functioned as the guarantee for legal protection that it was intended to be". The Lund Commission assumes that this is due to the fact that the judges in cases regarding national security have not been presented with counter-arguments and have been inclined to feel that they lack sufficient knowledge to be able to question the views of the PSS, and therefore have been reluctant to assume responsibility for national security and risk criticism if they were to refuse to allow monitoring. The Lund Commission also criticizes the routines in the Oslo City Court, where the decisions have been taken not at the court's premises, but at the offices of the PSS. The court records with the standard decision of the court have regularly been prepared beforehand by the PSS. With regard to the period after 1989, the Report states (p. 19):

"The Chief Justice of the Oslo City Court stated in the late eighties that telephone monitoring shall not be used as a passive surveillance method, and that other investigation measures must be undertaken simultaneously. It is not clear to the Commission whether this has led to a change in practice in later years, as this period has not been thoroughly investigated by the Commission. However, the same procedures are followed today in the Oslo City Court."

193. The Lund Commission found that the PSS, contrary to section 3 of the Royal Decree of 19 August 1960, has registered excess information from telephone monitoring. Up to as late as 1983, the Lund Commission also found some cases of unlawful searching of homes, etc. and confiscations, but none after 1983.

194. The Lund Commission points out that in none of the cases where the PSS have been criticized officially for unlawful practices in later years has the Control Committee for Security and Intelligence Services (hereinafter the "CCSIS") discovered the unlawful practice. The Report concludes as follows regarding the position of the CCSIS in telephone control cases (p. 28):

"The CCSIS was presented with the PSS' requests for telephone control, but seems to have limited its control to whether the court decision corresponded with the request from the PSS. On the basis of the explanations to the commission, it is somewhat unclear to the commission whether the members of the CCSIS were aware of the fact that party offices, etc. were subject to telephone monitoring for years. ... The CCSIS seems to have based its activities on the same assumptions as the PSS and - in reality - the inquiry courts: that telephone monitoring was done not primarily to investigate crimes, but to map the activities of organizations of interest to the PSS."

195. Considerable attention has been focused on the Lund Report in Norway. The Storting will consider the Report in late 1996 and early 1997. In that connection an open hearing will be held.

196. When considering St meld nr 39 (1992-93) (see above, para. 87) in 1993, the Storting decided that the CCSIS should be abolished and replaced by a new Control Committee for the Secret Services appointed by the Storting. This reform was implemented in 1995 by Act No. 7 of 3 February 1995 on the Control of the Secret Services. The main objective of this reform was to strengthen the legal protection of the individual in these matters and to strengthen the Storting's control. The new Control Committee shall cover the activities of the Police Security Services, the Defence Security Services and the Defence Intelligence Services. The Control Committee may hire legal counsel and appeal court decisions concerning measures such as telephone monitoring, etc. where the person concerned is not informed of the surveillance. The Control Committee shall investigate all complaints from individuals and organizations, and shall on its own initiate investigations if this is necessary with regard to the legal protection of the individual and the interests of society. The Control Committee shall verify both compliance with the strict requirements of the law and the discretionary judgement applied with regard to whether the measures are proportionate in the individual case. The Control Committee was appointed by the Storting in March 1996. It is expected that many of the weaknesses in the system which were uncovered by the Lund Commission, especially with regard to telephone control, have already been remedied through this reform.

197. In addition, it should be mentioned that the Oslo City Court is about to adopt new procedures in such cases. The court records are no longer prepared by the PSS, and as soon as the necessary security precautions have been taken, the decisions will be made at the court's premises.

198. In December 1996, the new Control Committee for the Secret Services informed the Storting that the PSS had asked the German authorities for possible information from the STASI's archives on a member of the Lund Commission. The PSS had also asked the German authorities what information from the STASI's archives the Lund Commission had had access to. As a result of this news, the Chief of PSS and the former Minister of Justice, who was still a member of the Government, resigned. In addition, the Prime Minister announced in the Storting that a thorough examination of the legislation and regulations relating to the secret services should take place immediately.

Various other work pertaining to developments in the laws on surveillance and monitoring, etc.

199. In 1990, a committee was appointed with a mandate to consider amendments of the Penal Code and the Criminal Procedure Act with regard to the efforts to combat terrorism. The committee, generally referred to as the "Security Committee", submitted its report in 1993 (NOU 1993: 3). In the report, it is proposed, inter alia, that the police in cases pertaining to national security, etc. may be allowed to undertake searches of homes, etc. without informing the suspect of this. The follow-up of the Security Committee's report has been postponed because the Government has been waiting for the report from another committee appointed in 1994 with a mandate to review criminal investigation in general. This committee, generally referred to as the "Method Committee", is, inter alia, reviewing the methods to be used during investigation. The report regarding investigation methods will be submitted during the spring of 1997.

Amendment of the Personal Data Filing Systems Act and the work of the Data Inspectorate

200. The text of the 1978 Act relating to personal data filing systems, etc. was enclosed as annex XI to Norway's second periodic report (see paragraph 84 of that report). By Act No. 78 of 11 June 1993, the Personal Data Filing Systems Act was given a new chapter 9 a dealing with video surveillance. The new provisions read:

"Section 37 a:

"Video surveillance and image recordings in connection with such surveillance are only permitted if they are objectively justified in the light of the activities of the institution or enterprise that is carrying out the surveillance. In the case of surveillance of a place which is regularly frequented by a limited group of people, however, surveillance is only permitted if there is a special need for such surveillance in the interest of the said activities.

"The image recordings shall be erased when there are no longer objective grounds for storing them.

"The term 'video surveillance' means the continuous or regularly repeated surveillance of persons by means of remote-controlled or automatically operated video camera, camera or similar device.

"This chapter shall not apply to image recordings which are to be regarded as personal data filing systems. In case of doubt the King may decide when an image recording that has been made by means of video surveillance shall be regarded as a personal data filing system pursuant to section 1, second paragraph.

"Section 37 b:

"Image recordings made in connection with video surveillance may only be delivered to a person outside of the enterprise or institution that has carried out the recording if the subject of the recording consents thereto or if there are statutory provisions for such delivery. Unless the statutory duty of secrecy prevents delivery, the image recording may however be delivered to the police in connection with the investigation of criminal acts or accidents. The King may by regulations or in respect of the individual case prescribe that image recordings may be delivered in cases other than those provided in the first and second sentences.

"The King may by regulations lay down further rules relating to protection, use, delivery and erasure of image recordings carried out during video surveillance. The King may also lay down regulations relating to the right of the surveillance subject to have access to the portions of the image recordings in which he or she appears.

"If image recordings are not erased in accordance with section 37 a, second paragraph, or with the regulations laid down pursuant to the second paragraph of this section, the Data Inspectorate may issue orders concerning erasure."

201. Rules governing security, use and erasure of picture recordings from video surveillance have been given by Regulations No. 536 of 1 July 1994. The recordings shall be safely stored and shall only be used in accordance with the intention of the recording. Erasure shall take place within seven days after the recording, unless it is expected that the recording will be delivered to the police. For recordings from banks and post offices, the time limit for erasure is three months. The person recorded has a right to see the parts of the recording where he or she appears, but this does not apply to recordings which are in the possession of the police or the defence authorities. Breach of the duties regarding securing, erasing and use of the recordings is sanctioned by fines or imprisonment up to one year or both. The Data Inspectorate has no sanctions to impose if a particular recording is not "objectively justified", and there is no penalty attached to recording in breach of this discretionary requirement. The individual who is being monitored may, however, go to the ordinary civil courts, demanding that unlawful monitoring must cease. Unlawful recordings may also, depending on the circumstances, be refused as evidence in court.

202. The Data Inspectorate has received some complaints from the public with regard to video surveillance. In several of these cases, the Data Inspectorate has doubted whether the requirement that the monitoring shall be "objectively justified" is satisfied. The Data Inspectorate has reported the Norwegian Postal Service to the police for keeping recordings from a post office longer than allowed.

203. Section 390 b of the Penal Code has been amended to include video surveillance at the workplace. The text quoted in paragraph 154 of Norway's third periodic report has been amended as follows (amendment underlined): "Any person who carries out television surveillance of any public place <u>or workplace</u> ...".

204. In April 1994 the Storting instructed the Government to present a bill proposing the following two changes in the Personal Data Filing Systems Act:

(a) The duty of the owner of the filing system to inform the persons registered about the registration shall be expanded to the effect that such information shall be given as a general rule. Today, there are some important exceptions from the obligation to provide such information, especially with regard to private filing systems (sect. 7);

(b) The Act shall be given a provision which states the principle of the right to protection against arbitrary interference with privacy. This principle applies today as an unwritten principle of law.

205. In October 1995, the Ministry of Justice appointed a committee with a mandate to review the legislation concerning personal data filing systems, etc. and to prepare a new bill on personal filing systems, including the amendments called for by the Storting in 1994. The background for this is a

general need to update the legislation in light of technological advances and the development of international rules in this area, especially the EEC Directive of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The position of the Data Inspectorate will be reviewed, and may be changed. This committee's work is expected to be completed by March 1997.

206. During the period covered by this report, the Data Inspectorate has focused particular attention on the following issues:

(a) Security in connection with personal information, especially with regard to the Internet;

(b) "Electronic traces" in general, and the need to regulate the collection and use of such information;

(c) The tendency towards larger filing systems for use in the medical sciences and the possible dangers this represents with regard to information on hereditary material concerning persons other than the persons registered.

Interference with family life

207. Supreme Court decisions dealing with cases concerning the expulsion of persons having committed serious crimes where the right to family life was invoked, are dealt with in the present report under article 13.

208. In 1996, the European Court of Human Rights found that the Norwegian Child Welfare Authorities had interfered with the family life of the applicant in breach of article 8 of the European Convention on Human Rights (the case of Johansen v. Norway).

209. The background was as follows: in December 1989, one week after its birth, the applicant's child was taken into provisional care by the Client and Patient Committee, and was placed in a short-term foster home. The mother was allowed to visit the child twice a week. In May 1990 the Committee decided to place the child in a foster home with a view to adoption, to deprive the mother of her parental responsibilities and refuse her visits, and to keep the foster home address secret. The decision was upheld by the County Governor of Oslo and Akershus and the courts. The mother claimed that the taking of the child into care and the deprivation of her parental rights and access to the child were violations of article 8 of the European Convention on Human Rights.

210. The European Court of Human Rights found that there had been no violation of article 8 with regard to taking the child into care and refusal to terminate the care, but that the decision to deprive the mother of her parental rights and access to the child was a violation of article 8. These measures were found to be particularly far-reaching in that they had totally deprived the mother of family life with the child and had been inconsistent with the aim of reuniting them. The requirement that such measures must correspond to an overriding requirement pertaining to the child's best interest was not satisfied.

211. To make sure that practice in the future will not violate the right to family life as understood in this judgement, the Government will translate and distribute the judgement to all the Norwegian child welfare authorities. The judgement does not require any revision of legislation, as it was the exercise of discretion in the particular case and not the measures in question or the nature of the relevant issues to be considered which constituted the violation. Furthermore, the 1953 Child Welfare Act, which governed the Johansen case, has been replaced by a new Child Welfare Services Act of 1992. The conditions for compulsory care are basically the same as those applied under the 1953 Child Welfare Act, but the new provisions are more detailed. A new adjudicating body in the child welfare administration, the County Social Welfare Board, has been introduced to reinforce the legal protection of the parents and the child. Unlike the 1953 Act, the 1992 Act contains in section 4-19 a provision to the effect that both the child and the parent have a right to access unless the County Board decides otherwise in the interest of the child. The preparatory notes to the new Act emphasize the importance of contact between the child and the parents. It should be noted that preparatory notes to legislation carry considerable weight in Norwegian law.

Article 18

212. After its consideration of Norway's third periodic report, the Human Rights Committee emphasized that section 2 of the Constitution, which provides that individuals professing the Lutheran faith are bound to bring up their children in the same faith, is in clear contradiction with article 18 of the Covenant (CCPR/C/79/Add.27, para. 10).

213. The provision in question has not been amended. It should be noted that the provision merely constitutes a moral obligation. There is no constitutional or statutory provision which allows for sanctions against parents belonging to the Church of Norway who do not bring up their children in the Lutheran faith. It should also be noted that parents who do not wish to bring up their children in the Evangelical-Lutheran faith are free to resign from the Church of Norway. According to section 3 of the Church Act (see below) and section 5 of Act No. 25 of 13 June 1969 relating to Religious Communities, children belong to the same religious community as their parents from birth. Thus, a child of parents belonging to the Church of Norway will automatically belong to the Church of Norway as long as the parents are members. When the child is 15 years old, he or she may resign from the Church of Norway, or any other religious community of which he or she is a member.

The Church Act

214. Act No. 1 of 29 April 1953 relating to the Organization of the Church of Norway has been replaced by Act No. 31 of 7 July 1996 relating to the Church of Norway (the Church Act). The new Act continues the reforms which were described in paragraph 93 of Norway's second periodic report, which are aimed at making the Church of Norway more independent of the State. The main reform is that the Church of Norway at local level has been given legal, administrative and to some extent economic independence from the municipal authorities.

Teaching of religion and moral education

215. In the supplementary report to Norway's initial report under article 40 of the Covenant, it was mentioned that religious instruction is a subject in primary and lower secondary school, and that parents who do not belong to the Church of Norway may request that their children be exempted from taking part in these classes. The content of the subject and the right of exemption from instruction have recently been studied by a committee appointed by the Government. In its report "Identity and Dialogue" (NOU 1995: 9), the committee proposed that the subject should be "open and inclusive", so that it could in principle encompass all pupils. In addition to instruction on Christianity, the subject should contain instruction on other religions, and emphasize philosophy and ethics. Children of parents who were not members of the Church of Norway could, if the parents so wished, be exempted from parts of the teaching, mainly those parts which had to do with worship and practice. The committee also proposed that teachers should not have the right to be exempted from teaching this subject. The proposals of the committee have been criticized, especially by religious minorities and others with a different philosophy of life.

216. By Act No. 53 of 28 June 1996, Act No. 26 of 13 June 1969 relating to primary and lower secondary school was amended as proposed by the committee with respect to the content of the subject. Section 7, subsection 4, of the Act now reads:

> "Instruction in Christianity and other religions and philosophies of life shall:
>
> - provide a thorough knowledge of the Bible and Christianity as cultural legacy and the Lutheran faith,
>
> - provide a knowledge of other Christian denominations,
>
> - provide a knowledge of other world religions and philosophies of life and ethical and philosophical topics,
>
> - promote understanding of and respect for Christian and humanistic values,
>
> - promote understanding of and respect for persons with different views on issues of religion and philosophy of life, and the ability to conduct a dialogue with such persons."

217. The Storting also amended section 18, subsection 3, first paragraph, of the Act (cf. page 16 of the supplementary report to Norway's initial report). It now reads:

> "Anyone who is to give instruction in Christianity and other religions and philosophies of life shall base such instruction on the stated objectives for schools and present the special characteristics of Christianity and other religions and philosophies of life. Teaching of all different topics should be based on the same educational principles."

218. The Storting repealed section 18, subsection 3, second paragraph, which stated that teachers who do not belong to the Church of Norway should not be obliged to teach the subject. It did not, however, limit the right of pupils to be exempted from the subject, as the committee had proposed. The Storting wanted a more thorough study of the requirements of the international human rights conventions before considering this. Such a study is now being carried out by an expert appointed by the Ministry of Education, Research and Church Affairs.

219. Act No. 55 of 21 June 1974 relating to upper secondary education, section 2, second and third paragraphs, reads:

> "Upper secondary education shall contribute to increased awareness and understanding of basic Christian and humanistic values, our national cultural heritage, democratic ideals and scientific thought and method.
>
> "Upper secondary education shall promote human equality and equal rights, intellectual freedom and tolerance, ecological understanding and international co-responsibility."

220. On 30 August 1996, a new curriculum was adopted for the subjects of religion and ethics in upper secondary education. The curriculum is divided into three equally important parts:

(a) Existing non-Christian religions;

(b) Christianity;

(c) Philosophies of life, philosophy and ethics.

Conscientious objectors

221. No legislative amendments have been made during the period covered by this report with regard to grounds for refusing to do military service. A white paper (St meld nr 22 (1995-96)) has, however, been submitted to the Storting in which the Ministry of Justice has expressed an intention to orient the civilian national service (see pages 17-18 of the supplement to Norway's initial report) to a greater degree towards its functions in times of war or crisis. It should be targeted towards: protection of particularly vulnerable groups; protection of nature and the environment; international solidarity; protection of infrastructure.

222. Furthermore, the Ministry stated that it will examine the question of the duration of the civilian service more closely, and that the procedure for granting exemption should be amended. The Ministry expressed a preference for a system in which a written declaration from the recruit stating that he cannot do military service of any kind without coming into conflict with his deep personal conviction shall be enough to exempt him. The Ministry is presently preparing a bill proposing the necessary amendment to Act No. 3 of 19 March 1965 relating to Exemption from Military Service.

Article 19

Penal sanctions against defamation

223. During its consideration of Norway's third periodic report, the Committee noted among the principal subjects of concern that certain obsolete laws still exist in Norway, in particular with regard to penal sanctions against defamation (see CCPR/C/79/Add.27, para. 8).

224. It should be mentioned in this context that the Standing Committee for Criminal Law Reform has, at the request of the Ministry of Justice, considered some amendments of the legislation relating to defamation (see NOU 1995: 10). The proposals include a proposal that it be stated explicitly that a statement has to be contrary to law (rettsstridig) in order to be defamatory, and a proposal that the aggrieved party shall no longer be allowed to institute a private prosecution in such cases (cf. the Criminal Procedure Act, chap. 28). These proposals are now being considered by the Ministry of Justice.

The Commission on Freedom of Expression

225. Recognizing that freedom of expression is a fundamental requirement for a democratic government, an important basis for cultural development and a central element of the freedom of the individual, the Government in August 1996 appointed a Commission on Freedom of Expression. The Commission was asked to propose how to revise the constitutional protection of freedom of expression, taking as a point of departure an analysis of the factors which influence real freedom of expression, and a discussion of the basis for the constitutional protection of freedom of expression. The Commission was explicitly asked to discuss whether protection of the dignity and integrity of the individual ought to be assured within the framework of criminal law, or whether other systems of sanctions might be more appropriate.

226. The Commission will also review the constitutional protection of the freedom of expression in light of relevant international law, in particular in the field of human rights.

227. The Commission has 16 members. The Commission shall present its report by 1 July 1999.

Police behaviour towards demonstrators during a visit of the President of the People's Republic of China

228. Freedom of expression and the freedom to demonstrate received a great deal of attention in connection with police behaviour during the official visit in the summer of 1996 of the President of the People's Republic of China. During the visit, some demonstrators wearing yellow T-shirts and/or carrying banners were asked by the police to put away the banners and cover their T-shirts, and some were taken to police cars for approximately half an hour. Among those who were put in police cars was a monk from Tibet, Palden Gyatso. In some of these instances, the police went further in repressing the demonstrators' freedom of expression than was necessary to protect the

security of the President. Although it had not been the policy of the authorities to protect the President from seeing demonstrators, it appeared that some police officers had this impression.

229. Afterwards, the Chief of Police of Oslo apologized to Palden Gyatso, and expressed self-criticism regarding individual incidents and the lack of ability to inform police officers at all levels in a clear and precise way of the relevant directives and policies. In a meeting with the Minister of Foreign Affairs, Palden Gyatso also received an apology from the Ministry of Foreign Affairs.

230. In a detailed report on the incident, the Chief of Police informed the Minster of Justice that the police in Oslo will carry out a thorough evaluation of its routines for orders and for information on policy. It will review its routines in order to make sure that major operative tasks in the future will be carried out in a way that takes sufficient account of the need for security, but also is in accordance with the common opinion of what is right and necessary. The Ministry of Justice has had a meeting with the Oslo Police in order to follow up this evaluation.

231. Reports made by two NGOs against the Oslo Police have been dismissed by the Prosecuting Authority. It has found that even though there had been episodes which should not have taken place, there was no reason to initiate investigations against the police.

Political advertisements in broadcasting

232. The opinion expressed by the Parliamentary Ombudsman for Public Administration in case 95-1309 E has a bearing on article 19. The background of the case was that the Market Council, in accordance with regulations relating to advertisements in broadcasting laid down pursuant to the Marketing Act, had prohibited television advertisements in which a trade union (the Federation of Norwegian Professional Associations) argued that persons belonging to the group from which the union recruits its members ought to have higher wages. The Parliamentary Ombudsman for Public Administration looked into the case on his own initiative. He was critical towards the decision, stating, inter alia, that the prohibition raises a number of unsolved questions in relation to the protection of the right to freedom of expression in article 100 of the Constitution, article 10 of the European Convention on Human Rights and article 19 of the Covenant. These questions had not been considered by the legislator, and the Ombudsman therefore concluded that the Market Council was not authorized to prohibit the advertising films in question. The Ombudsman asked the Market Council to reconsider its decision. The Market Council subsequently reversed its decision and the Ministry of Culture Affairs is presently reviewing the regulation in question. A proposal for an amendment of the regulations on political advertising will be presented in 1997.

Article 20

233. Norway has not withdrawn its reservation to paragraph 1 of this article, and the question of withdrawal has not been on the agenda during the period

covered by this report. With regard to paragraph 2 of the article, reference is made to Norway's initial report and to the information submitted in the present report under article 26.

Article 21

234. With regard to the right to freedom of peaceful assembly, it should be noted that a new Police Act was adopted by Act No. 53 of 4 August 1995. Rules relating to events in public places which involve the exercise of the right to freedom of expression or other political activity are now contained in section 11 of the Act Section 11 reads:

"Events in public places:

"Anyone wishing to use a public place for a demonstration, procession, meeting, stand or the like, shall notify the police accordingly well in advance. Furthermore, pursuant to section 14 of the Act, a regulation may be laid down containing rules requiring an application to be submitted for certain events in public places or requiring notification of events which are generally accessible to the public.

"Notification as mentioned in the first paragraph shall ordinarily be in writing and contain details as to the purpose and scope of the event, the responsible organizer, date, venue and the measures the organizer intends to take to ensure public order.

"The police may prohibit an event as mentioned in the first paragraph, but only when there is reason to fear that it may give rise to serious breach of public peace and order or of lawful traffic, or if the purpose which it intends to promote or the manner in which this takes place is in conflict with the law.

"The policy may take necessary steps to ensure that lawful events as mentioned in the first paragraph can take place undisturbed and with the least possible inconvenience to general traffic. Conditions may also be attached to the proceedings so as to prevent such disturbance or violations as mentioned in the third paragraph. This may include conditions to the effect that participants in a demonstration or the like shall not bring with them objects that can be used to threaten or to inflict damage or injury.

"Participants in an event as mentioned in the first paragraph are prohibited from wearing masks, except participants in plays, carnivals or the like.

"The police may halt or break up events as mentioned in the first paragraph when they are held contrary to a ban imposed or conditions set, or if they cause such violations as mentioned in the third paragraph or if there is justifiable fear of such.

"The police may also attach conditions to, prohibit, halt or break up gatherings and events other than those mentioned in the first

paragraph in order to prevent anyone suffering molestation, to prevent serious breaches of public order or obstructions to traffic, or in order to re-establish peace and order after such events."

235. Failure to abide by the obligation to report pursuant to section 11, first paragraph, breach of the prohibition in section 11, fifth paragraph, or conditions set pursuant to section 11, fourth or seventh paragraph, is a misdemeanour for which fines or imprisonment not exceeding three months may be imposed (sect. 30).

236. The Ministry of Justice has, in a circular letter to all the police (G-90/95), stressed that in the interests of freedom of expression, the police shall carefully consider whether or not to prohibit an event. A decision to prohibit an event shall be taken at a high level within the police. Appeals against such decisions shall be decided by the Ministry.

Article 22

Industrial disputes

237. Reference is made to Norway's previous reports, in particular to the supplementary report to the initial report. In 1949 and 1955 respectively, Norway ratified ILO Convention No. 87 relating to Freedom of Association and Protection of the Right to Organize and ILO Convention No. 98 relating to the Application of the Principles of the Right to Organize and to Bargain Collectively. Within the ILO, Norway has been criticized for resorting too easily to compulsory wage settlement. This is one of the reasons why the Industrial Disputes Council in Norway in a recent report, NOU 1996: 14, has suggested principles for a new Act relating to industrial disputes. The committee does not suggest any limitation of the freedom of association, but it states that the main organizations should be responsible for the wage settlement, and to this end, the most central organizations should be given stronger positions in the collective bargaining. The report has been sent to all employees' and employers' organizations for comment.

The negative aspect of freedom of association: an opinion by the Parliamentary Ombudsman for Public Administration

238. The Parliamentary Ombudsman for Public Administration gave an opinion relating to the negative aspect of freedom of association on 13 June 1996. The issue was whether the obligation of students at a teachers' college to pay a membership fee to a student union together with the registration fee payable twice a year to the college violated their freedom of association. The Ombudsman found that even though the students were free to resign from the union, in which case the fee would be refunded, the system violated article 11 of the European Convention on Human Rights and article 22 of the Covenant. The Ministry of Education, Research and Church Affairs is presently considering the implications of this opinion.

Article 23

239. The legislation described in Norway's third periodic report in connection with article 23 has not been amended in any significant way. The following may be added regarding law and practice in this area in the period covered by this report:

Registered partnerships

240. By Act No. 40 of 30 April 1993 relating to Registration of Partnerships (the "Partnership Act"), homosexual persons were given the right to officially register their partnership (see Norway's third periodic report, paragraph 186). The main purpose of the Act is to regulate mutual rights and obligations between the two persons and between the couple and society. The Act states that legislation and regulations relating to married couples shall apply correspondingly to registered partners (sect. 3). However, registered partners are not allowed to adopt children (sect. 4). In order to register a partnership, at least one of the partners must be domiciled in Norway and at least one must have Norwegian nationality (sect. 2, para. 3). If one partner is a foreign national, it is required that his or her stay in Norway is legal.

241. The number of couples registered as partnerships was 154 in 1993, 133 in 1994 and 88 in 1995. Approximately 70 per cent of the registered partnerships are male partnerships.

The Marriage Act

242. Act No. 47 of 4 July 1991 (see Norway's third report, paragraph 180) was amended in 1994 to the effect that a foreign national must be legally resident in Norway to be allowed to contract a marriage in Norway. The reason for this amendment is that illegal immigrants have entered into pro forma marriages in order to obtain legal residence in the country.

243. The Marriage Act has also been amended to the effect that any marriage that has been contracted through the use of force may be annulled at the request of the person who was forced. This is a codification of previous unwritten law.

Women with a residence permit based on marriage/cohabitation

244. Section 37, fifth paragraph, of the regulations laid down pursuant to the Immigration Act (Royal Decree of 21 December 1990) has been amended to the effect that residence permits granted to women on the basis of marriage or cohabitation shall be renewed after the relationship breaks up, where the woman or her children have been physically abused in the marriage/cohabitation relationship. The reason for this amendment is that women who are being abused shall not have to fear that they must leave the country if they break up the relationship.

Article 24

245. Reference is made to Norway's initial report to the Committee on the

on 9 August 1996 on the progress made in implementing the recommendations made by the Committee on the Rights of the Child following its consideration of the initial report of Norway.

Child Welfare Services

246. The new Child Welfare Services Act (Act No. 100 of 17 July 1992) has improved the safeguards in cases involving the use of coercive measures in respect of children (see under article 14, paragraph 163 and article 17, paragraph 211).

247. In 1994, 4,260 children lived in foster homes, which is about the same number as in earlier years. The number of children living in child welfare institutions had, however, decreased to 510. At the same time, the number of children who received preventive assistance from the Child Welfare Services had increased from 8,540 in 1990 to 15,340 in 1994. This substantial increase in children receiving assistance at home without any similar increase in the number of children taken into care can be related to the Programme for National Development of Child Welfare (1991-1993) and the new Child Welfare Services Act. One important objective of the Act is to provide necessary support and help to the family so that children can function in a satisfactory manner in their normal environment.

"Church asylum"

248. Foreign nationals hiding from Norwegian authorities in churches is a phenomenon that occurred for the first time in 1993. The individuals in question have had their application for political asylum rejected and have moved into churches, attempting to avoid forced expulsion. Norwegian authorities view church asylum as a form of civil disobedience, but have chosen to respect the integrity of the holy ground, and so far none of the foreigners has been forced out of the churches.

249. Up to December 1996, approximately 70 individuals from various countries were hiding in Norwegian churches, including 16 families with children. Their length of stay in churches varied, but most families went into churches during 1996. On 9 December 1996, the Minister of Justice pronounced that all families in churches with children under the age of 18 will have their cases considered by a commission which has been set up for this purpose. The commission shall give an opinion in each case as to whether there are special humanitarian considerations related to the situation of the child, that indicate that the family should be granted permission to stay.

250. Children hiding in churches do not risk arrest outside the church buildings, which means that this group of children can participate in school and kindergarten activities without being arrested.

251. Any individual residing permanently or temporarily in Norway is entitled to necessary health care. In assessing what is "necessary", one aspect will be the legal status of the person's stay. Individuals in church asylum will definitely be entitled to emergency health care, whereas this is more questionable in less urgent cases.

Article 25

The right to access to documents in the public administration

252. A prerequisite for citizens being able to take full part in the conduct of public affairs is the right to access to documents in the public administration. The Government is presently preparing a white paper on the right to such access, due to criticism, mostly from journalists, that the public administration keeps too many documents secret. The white paper is expected to be submitted to the Storting during the spring of 1997. Enclosed as appendix 13 is a translation of Act No. 69 of 19 June 1970 concerning Public Access to Documents in the Public Administration.

Elections

253. A bill has recently been presented to the Storting in which the Government has proposed to improve the possibilities of voting for persons who are unable to vote on election day. It is proposed that a vote in advance may be cast at post offices, with a postman (in rural districts) or in their homes/institutions. It is also proposed that a vote which is given prior to the election day shall be final, i.e. persons who vote in advance will no longer be allowed to "regret" and vote on election day as well.

254. The number of signatures required to accompany an application for registration as a political party has been increased to 5,000 (cf. paragraph 132 of Norway's second periodic report).

Article 26

255. Reference is made to Norway's previous periodic reports to the Committee on the Elimination of Racial Discrimination, in particular Norway's twelfth and thirteenth periodic reports, consolidated in one document, submitted on 5 November 1996.

Racial discrimination

256. No cases have been brought before Norwegian courts in which it has been claimed that an administrative decision is invalid on the grounds of racial discrimination. However, a case has been submitted to the European Commission on Human Rights: the Skolte Sami population complained that their right to keep reindeer in the Neiden district in the northernmost part of Norway was not respected by the Norwegian authorities, and that this implied discrimination in conflict with article 14 of the European Convention on Human Rights. The appeal was dismissed by the Commission on 8 January 1993 as manifestly ill-founded. For further information regarding the Sami people, reference is made to the comments under article 27.

257. However there have been several complaints from immigrants (particularly from Africa, Asia and Latin America) that they are being checked more often and more thoroughly than others at the immigration and customs checkpoints at Norwegian airports and other entry points. They also complain that they are being stopped and that their identification papers are checked more often than others by police on the street, at railway stations, etc. Norwegian

authorities take these complaints seriously. The police and customs officers are therefore target groups for the Directorate of Immigration's measures to ensure that public authorities develop cross-cultural understanding and a capacity for cross-cultural communication (see below).

258. Racial discrimination and harassment by private parties do occur in Norway, mostly directed against immigrants from developing countries. Such discrimination occurs in the labour market and housing market and in connection with denial of goods and services, and in the form of threats towards persons of immigrant origin, racist propaganda and expressions of negative attitudes in daily encounters. The authorities are worried about this fact, and are adopting a wide range of measures to stop such discrimination. Some of these measures are:

(a) The Plan of Action to Combat Racism and Ethnic Discrimination, prepared by the Ministry of Local Government and Labour (1992), draws up several guidelines for public policy. Among these are the development of better instruments for measuring racial discrimination, efforts to improve the education of key personnel in order to improve public services to ethnic minorities, systematization of local experience in order to disseminate important lessons to other local communities and mobilization of youth against racism. The plan will soon be updated and revised;

(b) Several teaching programmes have been implemented. The teaching programme "Norway as a Multicultural Society" was launched in 1992. At the moment, the teaching material is offered to all educational institutions and used in educational institutions for the police, journalists, teachers, customs officers and health and social workers. Furthermore, five educational institutions have formed a national committee which is responsible for developing cross-cultural understanding and communication as an integral part of instruction in these educational institutions, in addition to developing a supplementary training course in cross-cultural understanding for the police, journalists, teachers, and health and social workers. The Directorate of Immigration has also held several seminars on cross-cultural understanding and communication for public institutions and public authorities, i.e. customs officers and the police;

(c) A plan of action to tackle acute situations of racial violence and harassment in a local community (the "Brumunddal Plan of Action") was drawn up in response to an acute local situation, and has been distributed to the police authorities at central and regional level, and to all the municipalities and local communities in Norway. National authorities have applied the experience from the Brumunddal project in other similar situations, and they have generated several positive results. The Directorate of Immigration has established a team of experts whose task is to assist local communities in the fight against racism and xenophobia;

(d) The Ministry of Local Government and Labour has proposed an amendment to section 55 (a) of the Working Environment Act. If passed by the Storting, the provision will prohibit direct or indirect discrimination on the grounds of race, colour of skin or national or ethnic origin in connection with appointments. It will also give persons who feel that they are

discriminated against on such grounds the right to receive documentation of the formal qualifications of the person who has been appointed, and in the event of a lawsuit, the employer has the burden of proof;

(e) Section 292 of the Penal Code regarding serious vandalism was amended by Act No. 15 of 7 April 1995, adding racial motivation as an aggravating circumstance when an act of vandalism has been committed. (Section 232 regarding serious violence was amended in the same way by Act No. 68 of 16 June 1989.);

(f) Due to allegations that the police do not institute criminal proceedings even in cases of obvious violation of the main provisions on racial (and other) discrimination, section 135 (a) and section 349 (a) of the General Civil Penal Code, the Director of Public Prosecutions has initiated a survey of the prosecution practice related to these sections. However, the results of this survey are not yet available;

(g) In December 1992, the Prime Minister initiated a Youth Campaign against Racism, Intolerance and Xenophobia in Norway. The concept was that political messages to young people are most effective when they come from youth leaders themselves. Several activities, among them a "tour against racism" and an information campaign, took place in 1994. A number of local committees have been established in order to combat racism and an "Anti-racist network" has been established by the Anti-racist Centre;

(h) The Government has decided to prepare a white paper on all aspects of the policy directed towards immigrants' integration and multicultural aspect of Norwegian society. The white paper will be submitted to the Storting in early 1997.

Discrimination on the grounds of gender

259. Regarding discrimination n the grounds of gender, reference is made to the comments under article 3.

Article 27

260. In the following, the term "minorities" is used in a broad sense, meaning national or ethnic, linguistic, religious or cultural groups which differ in significant respects from other groups within the State. A distinction is made between "recent immigrant groups" and "settled minorities".

261. According to the Government's policy, persons belonging to ethnic, religious or linguistic minorities shall, as far as possible, have the same opportunities, rights and obligations as the rest of the population. This implies that persons belonging to such minorities should not be denied the right, in community with other members of their group, to enjoy their own culture, to practise their own religion or to use their own language.

262. All individuals should be granted the possibility to arrange their own lives in accordance with their personal views and beliefs, as long as these remain within the limits of law. This implies that a person's religious beliefs are considered to be a private matter, and that the public authorities

should observe reticence in religious and cultural matters. All persons belonging to ethnic, religious or linguistic minorities are free to establish cultural or religious associations.

263. Norway does not have special procedures for formal recognition of minorities. When special measures are implemented concerning minorities (e.g. with regard to the use of minority languages, educational and cultural measures, etc.), this is usually done on a sectoral basis.

Settled minorities

264. Among the so-called "settled minorities", the Sami people are the only minority group considered to be an indigenous people in Norway. Other settled minorities include Finno-ethnic groups (the Kven), Roma and a Jewish community.

265. As regards the Sami People, reference is made to Norway's third periodic report, paragraphs 206-220. The following information may be added thereto:

266. The initial role of the Sami Assembly was mainly of an advisory nature. However, the Government, with the approval of the Storting, has decided that the decision-making competence of the Sami Assembly shall be developed in line with the body's own opinions and the general views of society as expressed by the Storting. The Government will in cooperation with the Sami Assembly continuously consider the question of increasing the decision-making competence of the Sami Assembly. As part of this process, the Government transferred the responsibility for administering all special State funding provided for specific Sami cultural activities to the Sami Assembly in 1993.

267. The Committee on Semi Legal Matters (cf. Norway's second periodic report, paragraphs 139 and 145) is expected to submit its report relating to the legal situation in respect of land and resources in Finnmark, the northernmost county in Norway, early in 1997. The report will, inter alia, contain proposals for future regulations. The Government has also established a research project in the field of Sami juridical customs and traditions.

268. The Finno-ethnic minority of Norway, the Kven, is a small minority in northern Norway. Their presence is the result of immigration from Finland over many centuries, mainly since the first part of the eighteenth century. Today, very few Kven speak Finnish. However, there is a growing interest in learning Finnish in the areas with a Kven population. Finnish is taught in primary schools in these areas at the request of the parents concerned. Lately there has been a movement towards a cultural revival among the Kven, and they have established their own organization. A newsletter, financed by the Government as a three-year project is also being published.

269. The Roma people. An evaluation of the special measures and affirmative action financed by State funds showed that this system had a stigmatizing effect due to the small number of Roma people in Norway. In accordance with the wishes of the Roma themselves, these measures were discontinued in January 1991.

270. The so-called "Travellers" (Tater) have for centuries been part of the Norwegian population (society). The authorities tried, however, to change the Travellers' way of life by using forced integration. Three Norwegian research projects have been launched in order to document to what extent the Travellers suffered injustice. Two organizations representing the Travellers have presented requests for official recognition as an ethnic minority and have recently applied for State funding of their cultural activities.

271. The Jews in Norway represent an ethnic as well as a religious minority. There is no particular policy regarding the Jews except for the general public grants to religious congregations and a particular State subvention for a Jewish home for old people in the Jewish community.

272 In March 1996, the Ministry of Justice appointed a committee to compile information regarding confiscation of Jewish property in Norway by the Quisling regime during the Second World War. The committee is charged with finding out what happened to the Jewish property and to determine how and to what extent confiscated valuables and/or property were returned to the Jewish families after the war. The investigation period of the committee is estimated to be one year.

Recent immigrant groups

273. Recent immigrant groups run a great variety of voluntary organizations. These are mainly local organizations, although regional and national ones exist. Immigrant organizations, including religious communities, receive a substantial part of their funding from various government sources.

274. The Norwegian Government allocates funds for the special educational needs of linguistic minorities, including recent immigrant groups. A substantial proportion of these funds is used for teaching the mother tongues of such minorities, mainly at the compulsory primary and lower secondary levels of the school system.

Broadcasting in Sami and immigrant languages

275. In 1995, the Norwegian Broadcasting Corporation (NRK) broadcast 1,500 hours of radio programmes in Sami, of which 1,359 hours were regional public programmes. In the same period NRK broadcast 27 hours of television programmes in Sami.

276. As of September 1997, NRK will begin to broadcast a weekly television programme for immigrants in Norwegian with programme items in foreign languages. In 1995, NRK broadcast 206 hours of radio programmes in foreign languages (Urdu, Vietnamese, Turkish). This will be somewhat reduced when the mentioned weekly television programme for immigrants starts up.